



# NORTH CAROLINA STATEWIDE LEGAL NEEDS ASSESSMENT

2003

---

North Carolina Legal Services Planning Council

The **North Carolina Legal Services Planning Council** is a voluntary association of certain North Carolina organizations who are composed of low-income persons, who provide legal services to low-income persons, or who assist in the provision of such services.

The mission of the Council is the central coordination of a sustained, comprehensive, integrated, statewide system to provide the most effective legal services to people in poverty in North Carolina.

Michael S. Hamden, North Carolina Prisoner Legal Services, Chair

James A. Barrett, Pisgah Legal Services

Stephon Bowens, NC Association of Black Lawyers Land Loss Prevention Project

Michelle Cofield, Public Service Activities Department, NC Bar Association Foundation

Susan Gottsegen, The Legal Aid Society of Northwest North Carolina

Deborah Greenblatt, Carolina Legal Assistance

George Hausen, Legal Aid of North Carolina

Allen Johnson, Legal Services Client Council

William Rowe, North Carolina Justice and Community Development Center

Kenneth Schorr, Legal Services of Southern Piedmont

For additional information about the Council, please contact Barbara Degen, Planning Council Coordinator, at (828) 437-8280 or [barbarad@legalaidnc.org](mailto:barbarad@legalaidnc.org).

# **North Carolina Statewide Legal Needs Assessment**

## **Table of Contents**

- I. Introduction
- II. General Overview of Poverty in North Carolina
  - A. Populations
    - 1. Racial Group—Black
    - 2. Ethnic Group—Latino & Hispanic
    - 3. Elderly
    - 4. Women
    - 5. Children & Youth
    - 6. Immigrants
    - 7. Farm workers
    - 8. Rural and Regional
    - 9. Disabled
    - 10. Prisoners & Juvenile Justice
  - B. Issues
    - 1. Jobs and Employment
    - 2. Health
    - 3. Education
    - 4. Housing & Homelessness
    - 5. Public Benefit Programs
    - 6. Consumer/Utilities
    - 7. Family Law
- III. Legal Issues
  - A. Response of Service Agencies
  - B. Client Survey Results
  - C. North Carolina Legal Services Task Force Responses
    - 1. Jobs and Employment
    - 2. Health and Public Benefits
    - 3. Education
    - 4. Housing
    - 5. Consumer
    - 6. Family
    - 7. Community Economic Development
- IV. Special Populations
  - A. Children
  - B. Migrant Farm workers and Transnational Workers
  - C. People with Mental Disabilities
  - D. Prisoners & Juvenile Justice
  - E. Native Americans
  - F. Persons Facing Environmental Hazards
  - G. The Rural Poor and Agricultural Issues
- V. Conclusion

# **I. Introduction**

As we settle into the technology-based affluence of the 21<sup>st</sup> century, hundreds of thousands of North Carolinians are being left behind. In North Carolina, like elsewhere in the country, poverty cuts across all lines, including race, gender, age and geography. There is no accurate stereotype of a typical poor person. In addition to the people who meet the federal guidelines for what is considered “officially” poor, thousands of others live on the edge of poverty—individuals and families who are unable to earn enough money to meet the basic expenses of life. And the numbers of the poor and near poor are growing.

In 2002 the North Carolina Legal Services Planning Council undertook a study of the legal needs of those living in poverty in North Carolina. The resources available to meet these needs are seriously limited. It is hoped that the assessment will provide a useful starting point for the legal services provider community and our supporters to identify and set service priorities, to develop and distribute adequate resources to meet the need, and to formulate a strategy to achieve the best possible results given those resources to meet the need.

This study includes information collected from a variety of resources:

- A consultant hired by the North Carolina Justice and Community Development Center conducted an extensive study, including expert interviews, research, and an analysis of statistical data from a variety of sources to capture quantitatively the extent of poverty in the State.
- Legal Aid of North Carolina distributed written surveys and conducted telephone interviews with approximately 400 agencies that provide services to low-income people throughout the State. A total of 173 agencies responded to the survey, which asked respondents to categorize their perception of the need for a specific legal service.
- The North Carolina Legal Services Client Council, in partnership with Legal Aid of North Carolina, conducted a survey of clients to find out what legal problems their families had experienced over the past two years, as well as to identify the most important legal issues for low-income people.
- Advocates representing low-income clients submitted reports summarizing their perceptions of the greatest needs facing their clients. These reports were obtained from advocates with extensive training and experience in serving the client community. Information was provided by each of the seven statewide North Carolina Legal Services task forces and by six legal services providers who represent discrete client populations that have special needs.

## **II. General Overview of Poverty in NC: Statistical Study**

In the spring of 2002, the North Carolina Legal Services Planning Council commissioned a statistical study. The purpose of the research was to provide a description of poverty in North Carolina—to capture quantitatively the extent of poverty in the state and to address the following questions:

➤ Who are North Carolina's poor? Are there specific subgroups that are struggling more than others? What are the specific challenges that individuals in these identified groups deal with?

➤ What are the overarching issues facing North Carolina's poor? With respect to each of these issues—what are the specific, critical challenges that individuals face? How can we measure and even prioritize these challenges? Are there specific populations who deal with these issues more than others and how?

The data in the study was collected through an extensive search, using expert interviews, websites, publications, reports, and national and state databases as resources.

Thirteen percent of North Carolina's population lives at or below the federal poverty level. The federal poverty level for a family of four is currently \$18,108 annually; for a single individual it is \$8,868 annually. The percentages are higher for children (19%) and the elderly (15%). Eighty-two percent of poor families with children have a worker in the household; there are more than 430,000 children in these working poor families.

Although the federal poverty level is a widely used indicator of economic hardship, it is important to recognize that it is no longer an adequate method of measuring the cost of living. The federal poverty level was designed during the 1960s to provide a measurement of what a family needs to survive. However, it was based on the assumption that food costs approximate one-third of family expenses and is based upon the costs of a "basic thrifty food plan." The assumptions of the federal poverty level no longer apply. Housing and automobile costs have risen at a faster rate than inflation, and childcare and related expenses are now a huge expense as women have entered the workforce.

Because the federal poverty level is no longer the best indicator of the cost of living, some analysts are now using a "living wage" standard in its place. The living wage standard is a bare bones budget to cover the necessities such as housing, childcare, food, taxes, health care, and transportation. It does not include extras or saving for emergencies, education, retirement, care loans or entertainment. The hourly earnings for a single parent, with one young child, living in the urban part of the state would have to be at least \$11 to meet the living income standard; the same parent living in a rural area would have to make at least \$8.25. A two-parent, two-child family, with each adult earning minimum wage would make almost \$21,500 annually. Although they would be earning wages above the federal poverty level for a family of four, they would fall almost \$4 per hour short in rural North Carolina and almost \$6 short in urban North Carolina of the amount needed to meet the living income standard.

The so-called “near poor” are also in great need. There were 220,000 families with children who live between 100-200% of the federal poverty level in North Carolina, including 179,000 families with children living between the 150—200% poverty level with a full-time worker in the household.

This section of the Needs Assessment presents a few “snapshot” statistics about populations and issues. The complete statistical assessment, together with a list of resources used, may be obtained from the Planning Council.

## **A. Populations**

### **1. Black North Carolinians**

- Employment, Wages & Economic Issues
- Educational Performance
- Public Assistance, Health & Housing

#### **Population & Poverty**

- ♦ Black North Carolinians comprise 21% of the state's population and almost 16% of the population 65 and older (2000)
- ♦ 47% of the working poor with children and 28% of the working poor without children are black (2001)

#### **Employment, Wages & Economic Issues**

- ♦ 59% of black workers earned below \$8.50 an hour, in 2000 dollars (1997)
- ♦ There is a 25% chance that blacks compared to whites will earn less than a living wage (2001)
- ♦ Blacks own 7% of the businesses in NC; these firms generate 0.42% of the states total sales and receipts and employ 1.1% of the state's workforce (1997)
- ♦ Black buying power has increased 76% in metropolitan areas and 67% in rural areas since 1990 (1999)
- ♦ The average unemployment rate for black men and women is 6.5 and 6.4, respectively (2000)
- ♦ 27% loans made by subprime lenders are in geographic areas of minority concentration (1997)

#### **Educational Performance**

- ♦ Black males make up only 16% of the public school population but represent 45% of those suspended and 52% of those expelled (1997-98)
- ♦ 48.5% black students, as compared to 79.2% of white students, in grades 3-8 scored at or above grade level on end-of-grade-testing for combined math and reading (1998-99)

#### **Public Assistance, Health & Housing**

- ♦ 65% of the WorkFirst caseload is black (2002)
- ♦ 49% of the children in foster care are black (2000)
- ♦ 43% Medicaid recipients are black (2000)
- ♦ The risk for being uninsured is 22.1% (2000)
- ♦ Only 56% of non-elderly blacks have employer health coverage (1997-99)
- ♦ 19.2% of non-elderly blacks are Medicaid enrollees (1997-99)
- ♦ 31% of the renter occupied and 15% of the owner occupied were black households (2000)

## **2. Latino & Hispanic North Carolinians**

See also Immigration and Farmworker Summaries

- Employment, Wages & Economic Issues
- Language Barriers & Educational Performance
- Public Assistance & Housing

### **Population**

- ♦ 378,963 Latinos live in NC, comprising almost 5% of the state's population (2000)
- ♦ There has been a 655% increase in the number of Mexicans living in NC since 1990 (2000)

### **Employment, Wages & Economic Issues**

- ♦ 62% Latino women were in the labor force (1990)
- ♦ There is a 70% greater likelihood that Latino workers, as compared to white workers, will earn less than living wage (2001)
- ♦ 72% Latino workers earned less than \$8.50 an hour (1997)
- ♦ According to the INS, 75% of Latino workers are illegal (2002)
- ♦ Hispanic buying power equals \$2.3 billion, increasing by 177% since 1990 (1997)
- ♦ 35% Loans made to Latino borrowers were made by subprime lenders (1997)

### **Language Issues & Educational Performance**

- ♦ 346,302 people live in households that speak Spanish; Of this number, 56% of the people live in households that speak English less than very well (2000)
- ♦ 37% of Latino 4<sup>th</sup> graders, as compared to 75% white 4<sup>th</sup> graders, score at or above grade level on reading (1998); 43% and 77% respectively were the performance percentages for math testing (1996)
- ♦ There is a 13.5 percentage point gap between Latinos and the statewide average in scoring at or above grade level on end of grade testing for grades 3 through 8 combined (1998-99)

### **Public Assistance & Housing**

- ♦ 14% Medicaid expenditures go to recipients who are neither black nor white (2000)
- ♦ Latinos comprise almost 5% of the current TANF caseload (2002)
- ♦ The average Latino family size is 4 people, as compared to the statewide average of 3 people (2000)
- ♦ Almost 5% of the homeless population are Latino (1998-99)



### **3. Elderly Population**

- Decrease in income and earnings as age increases
- The feminization of poverty among the elderly
- Housing Assistance
- Access to healthcare
- Prescription drug coverage

#### **Population & Poverty Levels**

- ♦ 11.3% of NC's population is 65 & older (2000)
- ♦ 15.1% of NC's elderly population lives in poverty (2000)
- ♦ 73.4% of the poor elderly are women (2000)
- ♦ 18.2% of elderly women are poor, compared to 10.3% of elderly men (2000)
- ♦ 3.4 times as many women as men, aged 75 and older, are poor (2000)
- ♦ NC ranks 7<sup>th</sup> highest in US for rates elderly living in poverty

#### **Income**

- ♦ 95% of elderly adults receive Social Security (2000)
- ♦ \$10,937 is the average Social Security payment (2000)
- ♦ 55% of elderly adults have some form of retirement earnings (2000)
- ♦ \$14,556 is the average retirement income (2000)

#### **Housing & Family-related Needs**

- ♦ 68.5% Elderly adults live in family households; 31.5% live in non-family households (2001)
- ♦ Of those living in non-family households, 96.9% live alone (2001)
- ♦ More than 12,000 elderly households have incomplete plumbing & more than 19,000 do not have telephones (1999)
- ♦ NC has relatively high numbers of low-income elderly residents living in Section 202 and HOME-funded projects (1998)
- ♦ 39% Elderly households spent more than ¼ income on housing costs (1999)
- ♦ 10% of grandparents are responsible for their grandchildren; 57% of these individuals are in the labor force and 20.8% live in poverty (2000)

#### **Health**

- ♦ 47% Elderly adults have no prescription drug coverage (1995)
- ♦ 56% Elderly living at 200% poverty level have no prescription drug coverage (1995)
- ♦ Very few doctors and dentists will accept new patients who receive Medicaid and/or Medicare
- ♦ Medicaid expenditures per elderly recipient equaled \$7,933 (2000)
- ♦ 32% of Medicaid expenditures went to elderly recipients while 12% of Medicaid recipients were elderly (2000)

## **4. Women**

- Employment & Wages
- Child Care & Child Support Enforcement
- Public Assistance
- Domestic Violence

### **Population & Poverty Levels**

- ♦ Over 100,000 families with female householder, children under 18 and no male present were living below poverty within the last 12 months (2000)
- ♦ 29% families with a female householder were living in poverty (2000)
- ♦ 56% of working poor families with children are headed by a female (2001)

### **Employment & Wages**

- ♦ Almost 60% of women are in the labor force (1998)
- ♦ 74% of employed women work full-time; 21% work part-time (1994)
- ♦ The average unemployment rate for black women is 6.5%; it is 3.1% for white women (2000)
- ♦ 55% of female workers earned below \$8.50 an hour (2000 dollars) in 1997
- ♦ NC ranks 38<sup>th</sup> nationally in % of women owned businesses (1992)
- ♦ Women own 25% of the firms in the state, generating only 5% of the total sales and receipts and employing only 7% of the state's workforce (1997)
- ♦ The ratio of women's earnings to men's for full-time, year-round employment is .75 to 1 (1998)

### **Child Care & Child Support**

- ♦ The average annual cost of day care is \$6,968 for an infant and \$5,876 for a 4-year old (2000)
- ♦ Over 26,600 children are on the waiting list for state day care assistance (2001)
- ♦ The average assistance by the state per child per year is \$3,684
- ♦ 34% Female-headed families receive child support (1997)
- ♦ There has been a 91% increase in the number of clients seen by the NC DSS for court-ordered child support enforcement since 1990 (2001)
- ♦ The amount of child support collections to Workfirst families increased 12%

### **Public Assistance**

- ♦ The maximum TANF monthly benefit for a family of three is \$272 (2000)
- ♦ There are 45,201 families in NC; this number represents a 46.6% decrease since 1997
- ♦ Families and children account for 69% of the Medicaid recipients and 25% of the resource expenditures (2000)

### **Domestic Violence**

- ♦ There were almost 39,500 victims of domestic violence (1998—1999)
- ♦ NC ranks 4<sup>th</sup> nationally for rate of women killed by lone man (1998)
- ♦ Domestic violence is one of the two leading causes of homelessness
- ♦ Of the 89 women murdered in NC, 88% were killed by someone they knew; 64% were the wives, common-law wives, ex-wives or girlfriends of the murderer (1998)

## **5. Children & Youth Population**

- Housing
- Education
- Health & Insurance Access
- Juvenile Justice
- Child Support Enforcement

### **Population & Poverty Levels**

- ♦ Every 23 seconds in North Carolina a baby is born into poverty (2002)
- ♦ NC ranks 41<sup>st</sup> nationally for the overall condition of its children (2001)
- ♦ 19% Children lived below poverty in 2000; 9% children were living in extreme poverty (below 50% of the federal poverty level) (1997)
- ♦ 26 counties, mostly in eastern NC, have at least 25% of their children living in poverty (2001)

### **Education**

- ♦ NC ranks 38<sup>th</sup> nationally for amount of spending per pupils in public school system, spending approximately \$6,280 per child (2000)
- ♦ 20% children in rural counties are served by Head Start; this is 8% higher than the numbers served in the remaining 15 urban counties (2000)
- ♦ The estimated retention rate for NCPS grades 9-12 is 57% (1999-2000)
- ♦ Nearly 38% black students will fail to finish high school (2001)

### **Housing & Technology**

- ♦ More than 10,000 children do not have safe, permanent homes and are in DSS custody due to neglect, abuse or voluntary placement by parents (2001)
- ♦ 49% of the children in foster care are black and 6% are Hispanic (2000)
- ♦ Children were the fastest growing population in Emergency Transitional Shelters in the mid-1990s, increasing by 27% between 1995 and 1996
- ♦ 56% children live in homes without computers; 79% do not have internet access (1997-98)

### **Health & Insurance Access**

- ♦ Approximately 20% children have a special health need (2000)
- ♦ 25% children enter kindergarten with untreated dental decay (1999)
- ♦ 2% of Medicaid-enrolled children under 3 years old and less than 30% Medicaid-enrolled children ages 6-14 receive dental care (1998)
- ♦ Approximately 200,000 children experience serious emotional disturbances (2001)
- ♦ 10.4% of all children are uninsured (2000); 53% of uninsured children are eligible for Medicaid or Health Choice but are not enrolled (1999)

### **Juvenile Justice**

- ♦ Over 30,500 youth were seen by juvenile courts; over 8,500 were admitted into detention centers (2000)

### **Child Support**

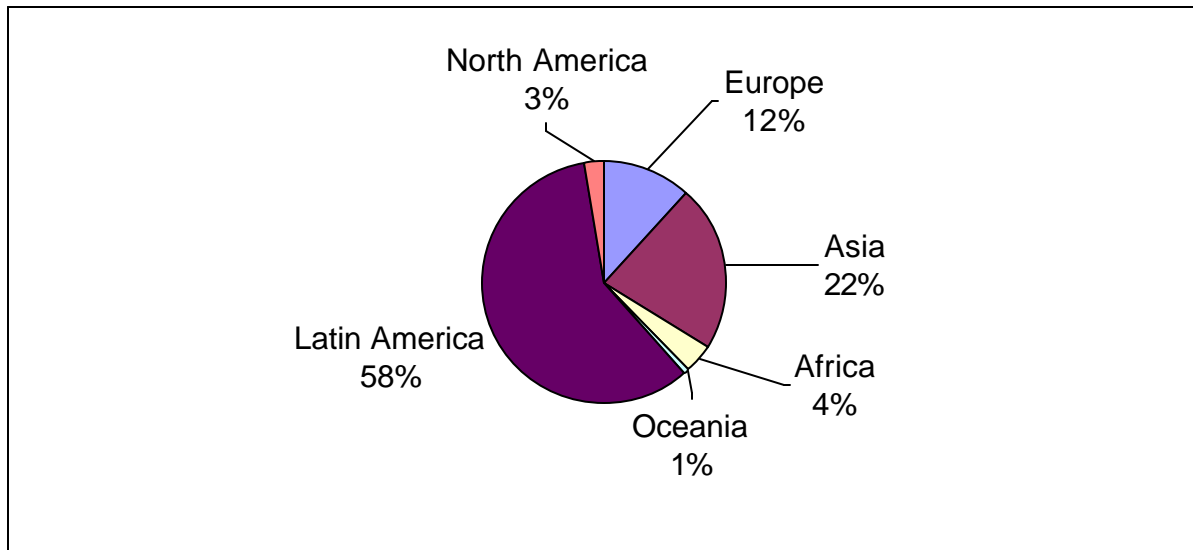
- ♦ 475,302 clients, representing almost 550,000 children were seen by the DSS for child support enforcement; this is a 91% increase in the number of clients since 1990 (2001)

## 6. Immigrants

### Population Data

- ♦ 429,165 individuals or 5.5% of NC's population are foreign born (2000)
- ♦ 79% of these residents are not citizens (2000)
- ♦ 270,908 (63%) of these individuals entered between 1990 and 2000; 158,257 (37%) arrived before 1990 (2000)
- ♦ North Carolina has experienced a 73% increase of immigrants from 1995 to 2000 - the highest rate of growth in the US (2000)
- ♦ 67,737 residents of NC were born in Puerto Rico, US Island or abroad to American parents (2000)

### Region of birth (2000)



- ♦ The Mexican population living in NC has increased 655% since 1990 - the largest growth rate of any state in the US (2000)
- ♦ The number of Latinos has grown from 56,039 in 1980 to 378,963 in 2000 (2000)

### Language, Economic & Other Issues

- ♦ Many immigrants do not understand their rights with regard to work, housing (or fear fighting for their rights) due to fear of deportation
- ♦ 7% of school-aged children (5 years and older) in NC live in households that speak languages other than English (2000)
- ♦ 49% of these children live in households that speak English less than very well (2000)
- ♦ According to the INS, 75% of Latino workers are illegal
- ♦ Immigrants pay large amounts in taxes, yet receive very little public assistance
- ♦ Hispanic buying power was up 177% since 1990 (1997)

## **7. Farmworker Population\***

- Wages & Working conditions
- Housing
- Health

### **Population**

- ♦ 63,100 migrant workers came to NC, NC employed 37,860 seasonal farm workers (2000)
- ♦ Approximately 157,000 people lived in all farm worker households (2000)
- ♦ More than 10,000 migrant workers participated in the H2A guest worker program; 2776 workers participated in the H2B program (1999)

### **Wages, Working Conditions & Economic Impact**

- ♦ Conditions usually include very high heat, long hours, little drinking water, working with unsafe pesticides, enjoy no freedom of association
- ♦ Farm workers are not eligible for workers compensation, overtime, or unemployment insurance
- ♦ The median weekly earnings of hired farm workers are \$288 (2000)
- ♦ H2A farm workers earn the federally mandated wage of \$6.98 per hour (2000); approximately 85% of the work dries up 5 months into the 7-month season (2001)
- ♦ Farm workers in the H2B program earn \$5.60 per hour on average (1999)
- ♦ Each farm worker contributes over \$12,000 to the agricultural industry annually

### **Housing**

- ♦ Approximately 34,000 (30%) of migrant and seasonal farm workers have no permanent home
- ♦ Much of the H2A housing is cramped, unsanitary and fails to meet housing standards
- ♦ H2A workers do not establish tenancy

### **Health**

- ♦ Farm workers experience serious health issues as a result of pesticide exposure, including allergies, problems with the respiratory and nervous systems, and cancer.
- ♦ NC Farmworker Health Program serves 8725 individuals; 75% are migrant
- ♦ Only 10% of the migrant farm worker population received primary care services from the Program
- ♦ 91% of the recipients were Latino; 67% male; and 27% children.
- ♦ 82% of the recipients had no health insurance; 8% received Medicaid and 3% of the children were enrolled in CHIP
- ♦ The Program costs were \$68 per encounter and \$132 per user.

\*Farmworker population includes both seasonal and migrant; unless specified the data is for the combined population

## **8. Rural and Regional Population**

- Employment & Education
- Housing, Utilities and infrastructure
- Health

### **Population & Poverty Levels**

- ♦ NC's proportion of the population living in rural areas is 50% higher than the US average (1998)
- ♦ The poverty rate in NC's predominantly rural counties is 14.5%, compared to 13% statewide
- ♦ 26% of NC's counties are considered low wealth (2000)
- ♦ 18% adults and 30% children in low wealth counties are living in poverty, compared to 13% and 19% statewide
- ♦ 57% of NC counties are considered distressed, based on income, employment, population size/growth

### **Employment & Adult Education**

- ♦ 41% of NC's jobs are located in rural NC (2000)
- ♦ More than 60% of recent layoffs have been in rural NC (2000)
- ♦ 66% manufacturing job losses have affected rural workers (2000)
- ♦ 74% manufacturing workers laid off are reemployed within two years(1997-1998)
- ♦ Of these rehires, the median wage of new jobs is equal to 88% of median pre-layoff wage; 20% receive a median wage of less than half their pre-layoff wage (1997-1998)
- ♦ There are approximately 13,300 job openings in rural counties (2002)
- ♦ 100% of the counties in NC with unemployment rates higher than 10% are rural; there are 14 (2001)
- ♦ Over 30% adults in rural NC lack even the most basic writing and computing skills (Level 1 Literary skills) (2000)
- ♦ 26.5% of rural adults have less than a high school education; this rate is 10% higher than that for urban adults (1997)

### **Housing, Utilities and Infrastructure**

- ♦ Approximately 200,000 rural, low-income families had housing issues (prior to Floyd) (2000)
- ♦ 13,000 residences in NC have outhouses
- ♦ In Eastern NC, 66% of the counties have average monthly rents greater than 25% average monthly income ()
- ♦ The costs of internet hook-up are dramatically higher in rural counties; as much as \$2500 for a designated t-line (2000)
- ♦ More than 50% of the state water systems are more than 40 years old (2000)
- ♦ On average, the 85 rural counties in NC have less than half the amount the urban counties have to spend on infrastructure and services (2000)

### **Health**

- ♦ 4 counties have no dentist; 36 counties have no dental services available to Medicaid recipients
- ♦ Just under 27% children ages 6-14 are able to use Medicaid benefits; 88% children ages 1-5 who are Medicaid eligible are not able to use any dental services

## **9. Disabled Population**

- Lack of Services
- Public Assistance
- Housing

### **Population**

- ♦ Approximately 80,000 North Carolinians have physical disabilities and 148,000 have developmental disabilities (2001)
- ♦ 45% of the population 65 and older has a disability (2000)
- ♦ 48% of the disabled population, ages 21-64, are employed (2000)

### **Services**

- ♦ Approximately 8,000 people with developmental disabilities are waiting for services (2000)
- ♦ 46% of these people are not receiving any services at all; 3155 of whom are children (2000)
- ♦ 177,111 children in the NC public schools are enrolled in Exceptional Children Programs (2000-2001)
- ♦ 69,011 children in NC public schools have specific learning disabilities (2000-2001)

### **Public Assistance**

- ♦ The mean Supplemental Security Insurance annual income is \$5,913 (2000)
- ♦ 91% of the SSI payments go to those who qualify under the blind and disabled category; this amount totaled more than \$58.5 million (2000)
- ♦ 157,155 individuals (82% of the total number of recipients) receiving SSI qualify in the blind and disabled category (2000)

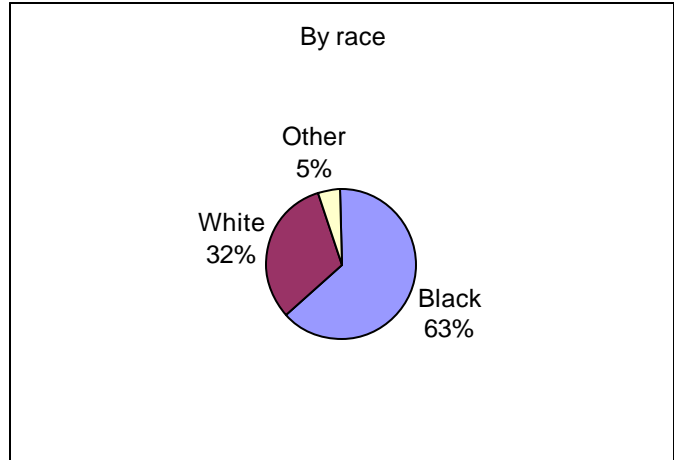
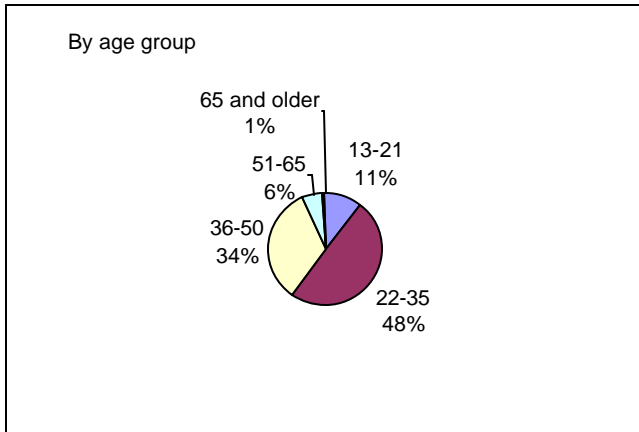
### **Housing**

- ♦ Just under 4,000 developmentally disabled people in NC are in need of residential services (2001)

## 10. Prisoner and Juvenile Justice Population

### Population

- ♦ 31,899 individuals were in NC prisons (FY2000-01)
- ♦ 13,250 individuals were in NC local jails (1999)
- ♦ Of the prison population – 6% were female and 94% were male

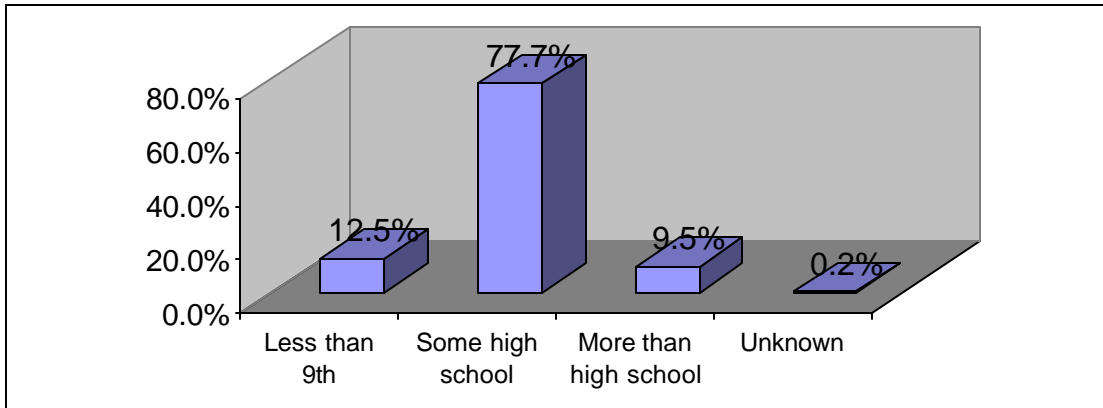


### Costs

- ♦ Average daily cost per inmate is \$65.29; Average annual cost per inmate is \$23,831 (FY2000-01)

### Educational Attainment

- ♦ Only 9.5% of the inmates had any post-secondary education; 12.5% never made it to high school (2001)



### Juveniles

- ♦ NC juvenile courts processed 30,564 intakes (2000)
- ♦ Average daily population in detention centers is 273 youth; average length of stay is 11.6 days (2000)
- ♦ 879 youth were admitted into Youth Development Centers; the average population was 879 and the average length of stay was 302 days (2000)



## B. Issues

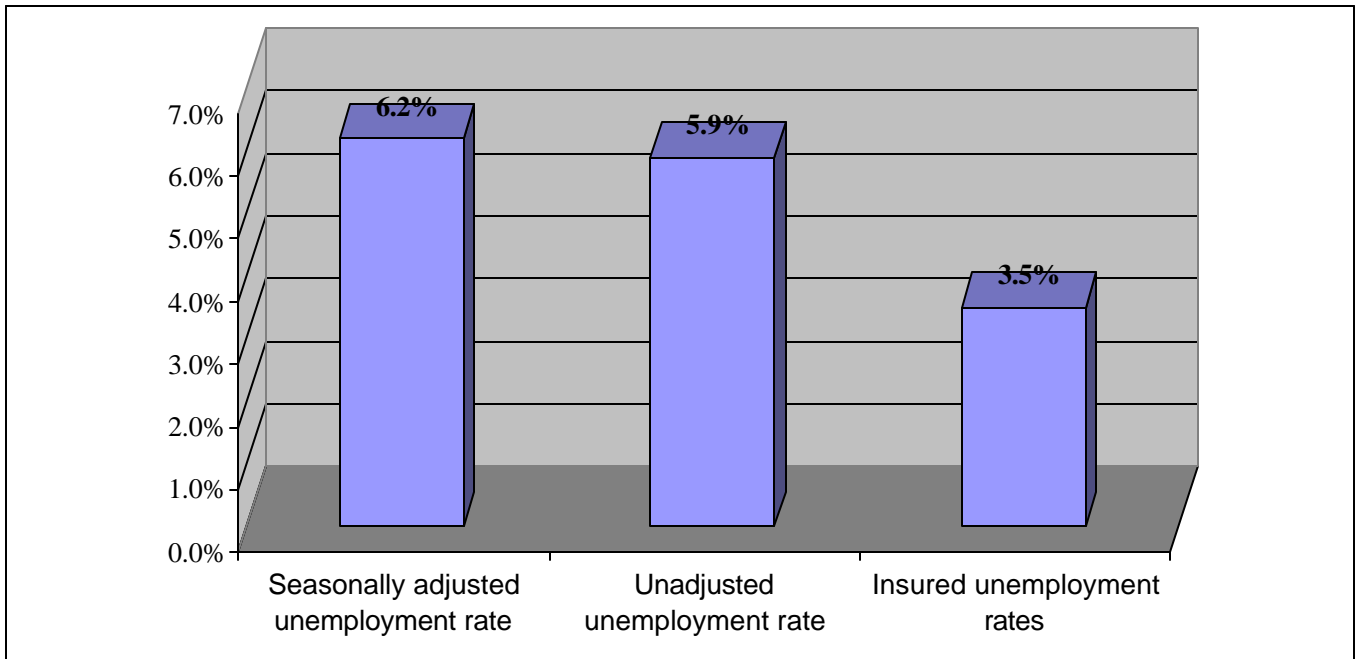
### 1. Jobs and Employment

- Income & Income Inequality
- Unemployment & Unemployment Insurance
- Dislocated Workers
- Living Income

#### Income & Income Inequality

- ♦ There was a 4.7% loss in real wages by the bottom 40% of wage earners between 1979 and 1999
- ♦ 70% of minimum wage earners are the primary wage earners in their family
- ♦ 27.4% of jobs in NC pay below the wages needed to lift a family of four above the poverty line
- ♦ Only 32% of the share of the income is held by the lower 60% of workers; 45% of the income is held by the top income fifth (or those making \$78,000 or more)
- ♦ In late 1990 income of wealthiest 20% of families was 10 times that of poorest 20% families
- ♦ Earnings ratio for women to men for full-time employment: 75 to 1

#### Unemployment & Unemployment Insurance



- ♦ The Unemployment Insurance Fund declined 44% since October 2000 (Oct.2001)
- ♦ Almost 25,000 people exhausted their unemployment benefits in the 4<sup>th</sup> quarter of 2001, up 143% from the previous year.
- ♦ 177,134 individuals filed for unemployment insurance for continued weeks (November 2001)

#### Dislocated Workers

- ♦ NC companies laid off 63,222 workers; 67% were in manufacturing (2001)
- ♦ 37% of the state's manufacturing jobs were lost during the 1990s

- ♦ Only 41% of the state's jobs are in rural NC, but over 60% of the layoffs are in rural NC
- ♦ 3.7% of the jobs in the labor force were lost (1997)

### **Living Income**

- ♦ The living income standard includes housing, child care, food, taxes, health care, tax credits, transportation and other necessities; assumes families have access to employer provided health insurance
- ♦ It is a bare bones budget that does not include extras or saving for emergencies, education, retirement, car loans or entertainment.
- ♦ The hourly earnings for a single parent, with one young child living in the urban part of the state would have to be at least \$11 to meet the living income standard; the same parent living in a rural area would have to make at least \$8.25 (2000)
- ♦ A two-parent, two child family, with each adult earning minimum wage would fall almost \$4 per hour short in rural NC and almost \$6 short in urban NC of the amount needed to meet the living income standard.

## **2. Health**

- Comprehensive insurance coverage
- Prescription drug coverage and costs
- Dental care
- Health indicators

### **Comprehensive Insurance Coverage**

- ◆ 14% of North Carolinians were uninsured throughout the year **(1998-2000 average)**
- ◆ 11% of the population is enrolled in Medicaid; 57% of those enrolled are below the age of 21 (2000)
- ◆ 32% of low-income mothers are uninsured (1999)
- ◆ 74% of low-income uninsured parents are not eligible for Medicaid (1997-99)
- ◆ Non-parent adults are not eligible for Medicaid (2001)
- ◆ 500,00 Children enrolled in Medicaid; 74,145 are enrolled in CHIP (2000)
- ◆ Low-income children and families represent 69% of those enrolled in Medicaid, while receiving only 25% of the expenditures (2000)

### **Prescription Drug Coverage & Costs**

- ◆ NC does not have a state pharmacy assistance program (2001)
- ◆ 47% Elderly adults have no prescription drug coverage (1995)
- ◆ Prescription drugs are not included in managed care (2001)
- ◆ In the state Medicaid managed care programs – all drugs are carved out, they are capitated and there is PCCM (2001)
- ◆ Drug expenditures comprise the highest Medicaid expenditure category, totaling over \$150 million annually (2001)

### **Dental Care**

- ◆ 4 Counties have no dentist; 40 counties have no dentist offering services to Medicaid recipients; NC ranks 44<sup>th</sup> nationally for dentists' Medicaid participation (2000)
- ◆ Almost 73% of Medicaid enrolled children ages 6-14 are not able to use their benefits for dental services; Only 16% Medicaid-eligible children ages 1-5 and 31% Medicaid-eligible children ages 6-14 use dental services (2000)
- ◆ Approximately 25% children enter kindergarten with untreated dental decay (2000)

### **Child Health Indicators**

- ◆ 43% Youth in grades 9-12 used tobacco products (1997)
- ◆ Approximately 200,000 children have serious emotional disturbances and 20% have a special health care need (2000)
- ◆ NC has the third highest infant mortality rate in the country (2000)
- ◆ 21% of low-income children ages 5-11 and 26% of low-income youth ages 12-18 were obese (2000)

### 3. Education

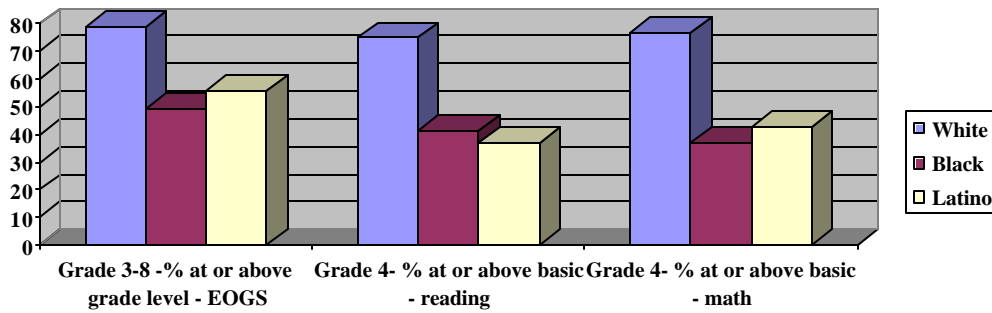
- Public school population
- Educational achievement & education gap
- Adult educational attainment
- Digital divide

#### Public School Population

- ♦ NCPS spends \$6,280 per pupil (1999-2000)
- ♦ 3800 children living in emergency transitional shelters were enrolled in NCPS (1998-99)

#### Educational Achievement & Education Gap

Testing performance, by race



- ♦ 5.2% were not promoted in the NCPS (1999-2000)
- ♦ The estimated retention rate for grades 9-12 is 57% (1999-2000)
- ♦ Black students represent 38% of the total number of students dropping out, but only 30% of the population (1997-98)
- ♦ 17% youth age 16-19 have dropped out of school (2000)
- ♦ Black males represent 16% of the total number of students, but 45% of those suspended and 52% of those expelled (1997-98)
- ♦ 48% rising graduates wanted to attend senior institutions; 34% hoped to pursue other types of post-high school education; 11% were planning to enter the work force (2000)

#### Adult Educational Attainment

- ♦ 23% Adults over 25 do not have at least a high school diploma; 30% have only a high school diploma (2000)
- ♦ NC ranks 32<sup>nd</sup> in the country for percent of women with college degrees (1990)
- ♦ In rural NC, over 30% adults have Level I literary skills (I.E. they lack even the most basic writing and computing skills) (2000)

#### Digital Divide

- ♦ 56% NC children do not have access to a home computer and 79% do not have internet access (1997-98)

## 4. Housing & Homelessness

- Housing Stock, Occupancy & Tenure
- Adequacy, Affordability & Safety
- Mobile Homes
- Emergency Transitional Shelters

### ♦ Housing Stock, Occupancy & Tenure

- ♦ Statewide homeowner vacancy rate is 2%; renter vacancy rate is 9% (2000)
- ♦ 78% of new privately owned housing was constructed in the MSAs (2000)
- ♦ 70% of the housing units are owner occupied while 30% are renter occupied; the average household size is 2.5 people and the average family size is almost 3 people (2000)
- ♦ 23% Owner occupied housing units are owned by North Carolinians aged 65 and older (2000)

### Adequacy, Safety & Affordability

- ♦ 1 in 5 NC households suffers from one or more housing problems, defined as living in housing with incomplete plumbing or kitchen, being overcrowded or spending more than 30% of the income on housing costs (2001)
- ♦ 13,000 households lack plumbing; 8,861 households do not have heat; and 13% are heated with kerosene (2000)
- ♦ 21% of the state's housing stock is between 40 and 60 years old (2000)
- ♦ 784,500 or 22% of the housing stock in the state has lead paint (1999)
- ♦ Over 50% of all subprime loans are made by mortgage brokers (1997)
- ♦ 40% of lower income renting households have to make monthly decision between food, shelter, health care and other basic needs (2001)
- ♦ The average hourly wage needed to afford a 2-bedroom apartment at fair market rate in NC is \$10.16 (2001)

### Amount households spent in housing costs, 2000

	# Paying >30% household income on housing costs	% Paying >30% household income on housing costs
Owners with mortgage	249,509	24.4%
Owners without mortgage	59,761	10.2%
Renters	322,942	35.9%

### Mobile Homes

- ♦ 28% of the state's new housing constructed between 1990-1998 were mobile homes; mobile homes comprise 19% of the total housing stock in the NC (1998)
- ♦ Mobile home owners typically do not own the land and are therefore similar to tenants in their own home – subject to eviction and repossession

### Emergency Transitional Shelters

- ♦ There has been a 79% increase in the unduplicated number of people served in NC emergency shelters between 1997-2000 (2000)
- ♦ 27% reported primary cause for using the shelter as domestic violence.

## 5. Public Benefit Programs

- Temporary Assistance to Needy Families
  - Social Security, SSI & Medicaid
  - Nutrition programs
- ♦ 512,522 (16%) Households in NC received public assistance income or non-cash benefits; 11% of which were cash payments.

### Temporary Assistance to Needy Families (TANF)

- ♦ \$272 is the maximum monthly benefit for a family of three (2000)
- ♦ 45,201 families were receiving TANF, down almost 47% since 1997 (2000)
- ♦ 65% of the current caseload is black, 25% white, and almost 5% are Latino (2002)
- ♦ The number of child only cases has remained stable, while the proportion of child only cases has increased dramatically – up 28% between Jan. 1995 and Jan. 2002 (2002)
- ♦ 26,108 adult Workfirst recipients went to work (2000)
- ♦ 93% of the Workfirst graduates since 1995 have remained off welfare (2000)
- ♦ NC uses TANF funds for clinical family planning services, teenage pregnancy intervention programs and outreach campaigns regarding some aspect of family planning (2000)

### Social Security, Supplemental Security Insurance & Medicaid

- ♦ 811,287 (26%) NC households received Social Security; the mean annual income was approximately \$11,000 (2000)
- ♦ 115,460 (4%) households received SSI; the mean income was almost \$6000 (2000)
- ♦ Prescription drugs, long-term care and hospital care make up the highest Medicaid expenditure categories (2001)
- ♦ Medicaid – recipients and expenditures (2000)

Eligibility category	Number of recipients	Resource Expenditures
Aged	12%	32%
Disabled	17%	42%
Families & children	25%	69%

\*Note: some individuals may qualify for both aged and disabled. 36 Counties have no dental services available to Medicaid recipients

### Nutrition programs

- ♦ 9% of all households in NC were food insecure (1996-1998 average)
- ♦ An estimated 220,186 households received food stamps – the average monthly food stamp benefit equaled \$72 per person (2000)
- ♦ There was an estimated 13% increase in the number of persons participating in the food stamp program between October 2000 and October 2001 (2001)
- ♦ There has been a 46% increase in the WIC total participation levels since 1990 (1999)
- ♦ 442,000 children on average participated in the free/ reduced price lunch program; 50% of these also received a free/ reduced price breakfast (1999-2000)

## **6. Consumer/Utilities**

- Payday Lending
- Mobile Homes
- Utilities
- Telephones & Internet Service

### **Payday Lending**

- ♦ \$649.5 million were given in loans and \$96.6 million in fees were collected by subprime lenders (1999)
- ♦ Typical payday lending scenario is a \$300 loan, charging a \$45 fee (2001)
- ♦ The effective interest rate for loans by subprime lenders is 460% or more (2001)
- ♦ There are more than 200 licensed check-cashing companies, with over 1200 outlets in NC (2001)
- ♦ NC has experienced a huge explosion in the number of check-cashing companies – 163% and 125% increases in the western and eastern parts of the state, respectively, between late 1998 and January 2001.
- ♦ Black borrowers represent 20% of the subprime mortgages, but only 10% of the prime mortgages (1997)
- ♦ 35% of loans made to Latino borrowers were made by subprime lenders (1997)
- ♦ 27% of all loans made by subprime lenders are made in geographic areas of minority concentration (1997)

### **Mobile Homes**

- ♦ 28% of NC's new housing constructed between 1990-1998 was mobile homes; mobile homes comprise 19% of the total housing stock in the NC (1998)
- ♦ Mobile home owners typically do not own the land and are therefore similar to tenants in their own home – subject to eviction and repossession
- ♦ Mobile homes are often sold in a manner similar to used cars – prices at discretion of the seller, interest rates are negotiable and often high
- ♦ Mobiles homes do not appreciate in value, making them a poor investment or means of wealth building
- ♦ Banks are often reluctant to provide loans for mobile homes, or do so only at very high interest rates

### **Utilities**

- ♦ Approximately 13% of households are heated with fuel oil or kerosene (2000)
- ♦ An estimated 13,000 households do not have plumbing and 11,600 lack kitchen facilities (2000)
- ♦ Over 50% of the state's water systems are more than 40 years old (2000)

### **Telephones & Internet Service**

- ♦ 33% of individuals in the lowest income households do not have telephone service (1997)
- ♦ More than 19,000 elderly households do not have telephone service (1999)
- ♦ 79% of children in the state live in a household without internet service (1997-1998)

### **Transportation**

- ♦ 218,536 (7%) of households in NC do not have access to a vehicle (2000)
- ♦ 976,968 or 32% have one vehicle (2000)

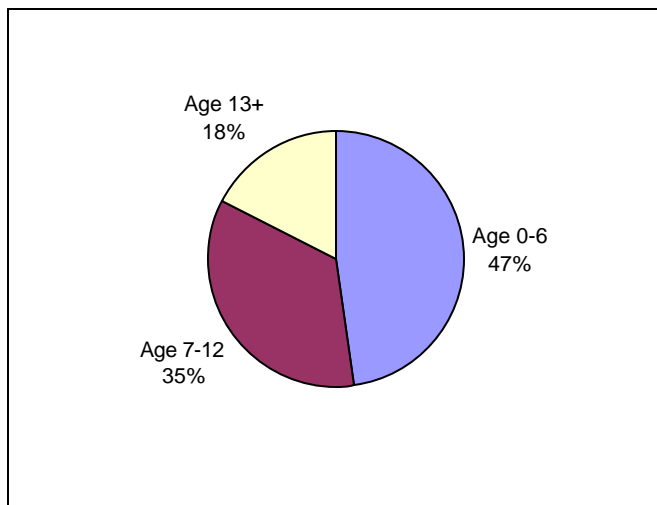
## 7. Family Law

- Child Abuse
- Child Support Enforcement
- Domestic Violence

### Child Abuse

- ♦ NC scored an “F” for two consecutive years for child abuse or neglect in the NC Child Health Report Card (2001)
- ♦ The total number of reported cases rose 1.5% from 1999-2000 to 2000-01.
- ♦ The statewide total of substantiated abuse or neglect cases rose 2.4% during the same years (2001)
- ♦ Cases involving 1,057 children having endured both neglect and abuse were substantiated (2001)

### Substantiated abuse or neglect cases, by age, 2001



### Child Support Enforcement

- ♦ 34% Female-headed families receive child support (1997)
- ♦ There has been a 91% increase in the number of clients seen by the NC DSS for court-ordered child support enforcement since 1990 (2001)
- ♦ 475,302 clients, representing 546,245 children went to the DSS for assistance with child support collections (2001)
- ♦ The DSS has increased collections by 7.5% since 2000 and 296% since 1990 (2001)
- ♦ There was a 12% increase in child support collections to Workfirst families (2000)

### Domestic Violence

- ♦ There were almost 39,500 victims of domestic violence (1998-1999)
- ♦ NC ranks 4<sup>th</sup> nationally for rate of women killed by lone man (1998)
- ♦ Domestic violence is one of the two leading causes of homelessness
- ♦ Of the 89 women murdered in NC, 88% were killed by someone they knew; 64% were the wives, common-law wives, ex-wives or girlfriends of the murderer (1998)



### **III. Legal Issues**

#### **A. Response of Service Agencies**

In an effort to assess the legal needs of the low-income population in North Carolina, Legal Aid of North Carolina initiated a multi-faceted survey project. Written and telephone surveys were distributed to approximately 400 agencies who provide services to low-income people throughout the state. A total of 173 agencies responded to the survey, in at least one of the formats. Throughout the survey respondents were asked to categorize their perception of the need for a specific legal service, identified in each question. Fourteen areas of legal services were included in the survey: community education, advance directives, family, health, housing, children's rights, consumer's rights, environmental, migrant farmworker, public benefits, economic development, education, and disaster recovery/relief.

Two primary findings surfaced through analysis of the survey responses. First, many of the providers surveyed do not have a sense of the needs of their clients, beyond the services they provide. There is a high level of uncertainty with regard to the need for specified legal services, individually and collectively. Many of the representatives of the organizations surveyed were not able to identify a level of need for a specific service—i.e., they were unclear in their perception of the legal needs of their clients. This is reflected in the high percentage of “unknown” responses (23%) as well as by the presence of many blank or “write-in” responses of “N/A.” (21%). These high percentages resulted in a 79% response rate and a 56% “effective response rate”—those responses that actually identified a need.

Second, the analysis of the scores indicating the perceived need for services do not identify an issue or subset of issues and services that are distinctly of greater need than any of the others, with the possible exception of Community Education. Of the responses provided, there were no clear-cut “hot issues”—or issues that stand out from the rest as being a high priority need—with the possible exception of Community Education. Using the coded responses that actually identified a level of need, average scores for each issue were generated as a tool for comparison and ranking. There was not a great range of scores, indicating that while there is some potential for prioritization, there are not one or two issues, with corresponding services, that are undoubtedly more needed by prospective LANC clients.

The Table below indicates the average score, ranked according to perceived need, for each of the 14 issues. The next column indicates the Effective Response Rate, or the percentage of the answers the average score was based on. The final set of columns reflects the percentage of responses for each answer. The column representing responses of “0” reveals the percentage of respondents who left the answer blank or “n/a”; “1” reveal the percentage of respondents who declared they did not know enough to provide an assessment of the need; “2” indicates the percentage of respondents who felt the service was “not needed”; “3” indicates the percentage of respondents who felt there was “minimal need” for the service; “4” indicates the percentage of respondents who felt there was “moderate need”; and “5” indicates the percentage of respondents who felt there was “great need.”

While the overall range of scores is not great—only 0.8 difference in the highest and the lowest score—the majority do hover around “4”, indicating a perception of moderate need. It appears that there are several issues—Community Education, Advance Directives, and Family Matters—that fall into the moderate to greatly needed range.

Issue	Average Score	Effective Response Rate	0	1	2	3	4	5
<b>Community Education</b>	<b>4.3</b>	<b>68.8</b>	<b>25%</b>	<b>6%</b>	<b>2%</b>	<b>8%</b>	<b>26%</b>	<b>33%</b>
<b>Advance Directives</b>	<b>4.1</b>	<b>56.2</b>	<b>23%</b>	<b>21%</b>	<b>2%</b>	<b>11%</b>	<b>25%</b>	<b>19%</b>
<b>Family</b>	<b>4</b>	<b>67.4</b>	<b>16%</b>	<b>17%</b>	<b>5%</b>	<b>14%</b>	<b>24%</b>	<b>24%</b>
<b>Health</b>	<b>3.9</b>	<b>50.1</b>	<b>21%</b>	<b>29%</b>	<b>4%</b>	<b>13%</b>	<b>18%</b>	<b>16%</b>
<b>Housing</b>	<b>3.9</b>	<b>63.1</b>	<b>20%</b>	<b>17%</b>	<b>3%</b>	<b>19%</b>	<b>24%</b>	<b>17%</b>
<b>Children's Rights</b>	<b>3.8</b>	<b>44.8</b>	<b>27%</b>	<b>28%</b>	<b>3%</b>	<b>13%</b>	<b>16%</b>	<b>13%</b>
<b>Consumer's Rights</b>	<b>3.8</b>	<b>58.2</b>	<b>18%</b>	<b>24%</b>	<b>4%</b>	<b>17%</b>	<b>23%</b>	<b>14%</b>
<b>Environmental</b>	<b>3.8</b>	<b>50</b>	<b>28%</b>	<b>23%</b>	<b>6%</b>	<b>15%</b>	<b>13%</b>	<b>16%</b>
<b>Migrant Farmworker</b>	<b>3.8</b>	<b>50</b>	<b>26%</b>	<b>25%</b>	<b>6%</b>	<b>12%</b>	<b>17%</b>	<b>15%</b>
<b>Public Benefits</b>	<b>3.8</b>	<b>56.7</b>	<b>21%</b>	<b>22%</b>	<b>4%</b>	<b>16%</b>	<b>22%</b>	<b>14%</b>
<b>Economic Development</b>	<b>3.7</b>	<b>52.2</b>	<b>19%</b>	<b>28%</b>	<b>6%</b>	<b>15%</b>	<b>17%</b>	<b>14%</b>
<b>Employment</b>	<b>3.7</b>	<b>52.7</b>	<b>23%</b>	<b>25%</b>	<b>4%</b>	<b>17%</b>	<b>20%</b>	<b>12%</b>
<b>Education</b>	<b>3.6</b>	<b>50.9</b>	<b>22%</b>	<b>27%</b>	<b>7%</b>	<b>18%</b>	<b>16%</b>	<b>10%</b>
<b>Disaster Recover/ Relief</b>	<b>3.5</b>	<b>45.7</b>	<b>23%</b>	<b>32%</b>	<b>9%</b>	<b>16%</b>	<b>13%</b>	<b>9%</b>

### Specific Areas of Legal Need

The 14 subject areas contained 117 individual questions. Twenty-five individual questions had an average score above 4, indicating the perception of at least moderate need. These questions are:

**Family:**

- Representing people/children in cases of child abuse, neglect, or abandonment
- Obtaining/defending child custody
- Obtaining/defending child support
- Obtaining/defending visitation rights
- Representing victims of domestic violence
- Establishing spousal support or equitable distribution of assets

**Education:** None

**Housing:**

- Addressing substandard rental conditions

**Public Benefits:**

- Establishing, appealing the denial of, or changing the payee for Social Security/SSI
- Assistance people with limited English proficiency who are eligible for public services access the agencies that provide those services

**Advance Directives:**

- Drafting last wills
- Drafting living wills
- Drafting powers of attorney
- Drafting health care powers of attorney
- Drafting advance guardianships for minors

**Health:**

- Establishing health insurance for the working poor
- Assistance people with limited English proficiency who are eligible for health services access the agencies that provide those services

**Consumer Rights:**

- Addressing unfair or deceptive debt collection practices
- Handling predatory lending issues

**Children's Rights:** None

**Community Economic Development:** None

**Employment:** None

**Disaster Recovery & Relief:** None

### **Migrant Farmworker Issues:**

- Addressing substandard housing conditions

### **Environmental:**

- Addressing substandard housing conditions resulting from environmental factors such as mold and mildew and lead poisoning

### **Community Education:**

- Providing written publications regarding people's rights
- Providing community presentations regarding rights
- Providing workshops that teach general self-sufficiency
- Providing workshops that teach people how to advocate for themselves regarding any of the specific matters you just rated
- Staffing exhibit tables regarding people's rights at community events

---

The telephone survey asked respondents, pulled from the original pool of 400, to identify the need for services in specific areas of law, including civil rights matters, immigration matters, and income tax matters.

<b>Question</b>	<b>Response Rate</b>	<b>% No</b>	<b>% Yes</b>
Civil Rights	91%	5%	35%
Immigration	92%	9%	61%
Income Tax	92%	8%	32%

These respondents were also asked some service delivery issues. These issues were:

- Is there a need in your community for legal services staff to speak languages other than English?
- Is there a need in your community for 'traveling attorneys'? (Attorneys who would travel on a regular basis (perhaps weekly) to your community to conduct intakes at a central location, such as the library or a community center, thus eliminating the need for potential clients to travel for legal services' offices?)

Do the hours of service of your local legal services program meet the needs of the community?

Are there any issues in your community that might benefit from lobbying?

<b>Question</b>	<b>Response Rate</b>	<b>% No</b>	<b>% Yes</b>
Hours	81%	2%	58%
Languages	95%	3%	87%
Lobbying	83%	3%	78%
Traveling Atty	89%	1%	79%

## B. Client Survey Results

In order to obtain information directly from the low-income population of North Carolina, the Client Council of the Triangle Region developed a legal needs survey. The survey asked individuals to review a list of legal issues and to check all of the legal problems with which the individual or a family member has needed help within the past two years. The survey also asked individuals to identify the most important legal issue facing poor people in their community in the past three years.

Staff at Legal Aid of North Carolina field programs were asked to interview fifteen clients whose cases had been closed within the past year. The following field programs returned 180 client surveys: Advocates for Children's Services, Ahoskie, Asheville, Boone, Charlotte, Durham, Greenville, Greensboro, Hillsborough, Pembroke, Morganton, Raleigh, Sylva, Wilmington, Wilson, and Winston-Salem. In addition, the Legal Services Client Council submitted survey responses from 36 individuals, for a total of 216 responses.

Listed below are the responses to the question: "Please check all of the legal problems you or a family member have needed help with in the past two years:"

<b>CONSUMER</b>	<b>LANC</b>	<b>Client Council</b>
Insurance	16	16
Debt Collection Harassment	55	16
Warranties Guarantees	7	4
Repossessions	20	2
Rent to Own	12	5
Easy Credit Scams	11	9
High Utility Bills	39	17
Telemarketers Internet Scams	33	6
Getting Credit	39	17

<b>HOUSING</b>	<b>LANC</b>	<b>Client Council</b>
Lack of Subsidized Housing	20	12
Repairs of Rental Housing	29	13
Lack of Affordable Housing	33	20
Discrimination	13	9
Illegal Retaliatory Evictions	12	3
Housing for Disabled/Elderly	16	12
Homelessness	11	12
Foreclosures	13	3
Housing Code Enforcements	9	4
No Housing Code	2	3
Water/Sewer Access	14	19

<b>PUBLIC BENEFITS</b>	<b>LANC</b>	<b>Client Council</b>
Social Security/SSI	50	16
Food Stamps or WIC	37	17
VA Benefits	6	8
Medicaid	40	18
Medicare	18	11
Work First	9	5

<b>EMPLOYMENT</b>	<b>LANC</b>	<b>Client Council</b>
Lack of Jobs	76	24
Discrimination	23	8
Unemployment Benefits	33	12
Pension/Other Benefits	6	8
Retaliatory Firing	17	3
Lack of Job Training	26	15
Childcare	20	8
Job Safety & Environment	12	5

<b>PUBLIC SCHOOL EDUCATION</b>	<b>LANC</b>	<b>Client Council</b>
Suspension/Expulsion	12	6
Parent Involvement	17	16
Access to Student Records	11	3
Special Needs Programs	13	17
Tracking	4	2
Social Promotion	4	9
Safety in School	13	14

<b>HEALTH CARE</b>	<b>LANC</b>	<b>Client Council</b>
Lack of Facilities	15	16
No Money for Services	53	22
High Cost of Health Insurance	56	28
High Cost of Health Care	56	23
High Cost of Medication	70	27

<b>FAMILY</b>	<b>LANC</b>	<b>Client Council</b>
Divorces/Separations	39	13
Name Changes	6	10
Adoptions	6	6
Paternity	7	6
Child Support	45	21
Physical Abuse	16	8
Child Abuse	13	10
Child Custody/Visitation	32	12
Child Neglect	6	12
Sexual Abuse	9	13
Children Displaced due to drugs, illness, neglect	9	11

<b>MISCELLANEOUS</b>	<b>LANC</b>	<b>Client Council</b>
Revocation of Drivers License	18	7
Wills	26	14
Living Wills	29	10
Health Care Power of Attorney	21	13
Power of Attorney	27	9
Property Taxes	19	19
Guardianship	7	9
Nursing Home Problems	11	12

<b>COMMUNITY ECONOMIC DEVELOPMENT</b>	<b>LANC</b>	<b>Client Council</b>
Getting Bank Services	25	9
Getting Home Mortgages	23	16
Business Development	5	8
Housing Development	11	12
Self-Advocacy Workshops	11	5
Written Info about Legal Rights	32	19
Presentations about Legal Rights	24	12
Exhibits about Legal Rights	22	9

<b>DISASTER RECOVERY</b>	<b>LANC</b>	<b>Client Council</b>
Home Repair Fraud	12	17
Flood Insurance Denials	5	14
FEMA/IG Denials	10	6
Home/Car Title Disputes	6	6
FEMA Buyout Issues	4	6
Home Sale Issues	4	4

<b>MIGRANT FARMWORKERS</b>	<b>LANC</b>	<b>Client Council</b>
Wage Disputes	5	7
Substandard Housing	7	5
Unsafe Work Conditions	7	7
Segregation from Community	4	6
Access to Jobs	4	7

<b>ENVIRONMENTAL</b>	<b>LANC</b>	<b>Client Council</b>
Water Contamination	19	14
Mold, Mildew, Lead Poisoning	12	16
Minority Community Hazard Sites	5	6
Environmental Nuisances	5	9

The surveyed individuals were also asked to respond to the following question:” What is the most important legal issue that has faced poor people in your community in the last three years?”

The Legal Aid office client responses are tabulated below:

<b>OPINIONS</b>	<b>TOTAL</b>	<b>OPINIONS</b>	<b>TOTAL</b>
Uncertain	16	Discrimination	5
Hurricane/Flood Relief	2	Health Services	13
Getting Legal Aid Services	4	Lack of Jobs	33
Refusal to Repair Rentals	1	Lack of Job Training	5
Unemployment Benefits	2	Traffic Tickets	2
Housing Issues	23	Drugs	3
Inability to Pay Debts	3	Fixed Income	3
Benefits for Disability & Medicaid	4	Family Matters	2
Childcare	1	Food	3
Sympathy from Agencies	3	Access to County Services	1
Elder Care	1	Custody	2
Medication for the Elderly	1	Harassment of Debt Collection	3
Taxes on Income below \$10,000	1	Education	1
Public Benefits	2	Environment	1
Child Support	5	Public School System	1
Alimony	1	Women & Domestic Issues	2
Knowledge/Ignorance of Rights	3	Social Services	1
Foreclosures	2	Single Mothers	1
Custody/Visitation	3	High Property Taxes	1
High Cost of Medication	9	Separation/Divorce	1
Ill Health	1	Cost of Living Increases	1
Getting Aid for Everyday Living	1	Lack of Money	1
Taken advantage of due to lack of communication	1	Custody of Abused & Neglected Children	1
Consumer Issues	3	High Interest on Loans	1



High Medical Bills	2	High Interest on Credit Cards	1
Evictions	2	Landlord/Tenant Problems	1
Transportation	2	High Utility Costs	1
Need to be more lenient with seniors	1	Access to Legal Services in an emergency	1
Availability/Government Benefits	1	Child Molestation	1

The Client Council survey responses are tabulated below:

<b>OPINIONS</b>	<b>TOTALS</b>	<b>OPINIONS</b>	<b>TOTALS</b>
Jobs or Lack of Jobs	7	Health Care	1
Better services for Elders	1	Money or Income	2
Getting Legal Aid Services	1	Housing	5
/Lack of Sewer Service	4	High Utility/Electric Bills	4
Food Stamps	1	Bankruptcy	1
Repossessions	1	Clean Water	1
Crime on the rise in minority	1	Hungry	1
Some without clothes	1	Home Repair	1
Some without water or lights	1	Inability to get government asst.	1

The Client Council also asked the following question:

What do you think will be the most important issue facing poor people in your community in the next three years?

The responses are tabulated below:

<b>OPINIONS</b>	<b>TOTALS</b>	<b>OPINIONS</b>	<b>TOTALS</b>
Jobs	14	Transportation	1
Low Wages	1	More Street Lights	1
Training	1	Lack of Money	3
Housing	4	Gas, Oil	1
Medicines	2	Education	2
Rising Crime in minority group	1	Economy	1
Taxes	1	Discrimination at school	1
Insurance	1	Health Care	1
Cost of Utilities/Electricity	2		

## **C. North Carolina Legal Services Task Force Responses**

The North Carolina Legal Services community currently has seven substantive law task forces. These task forces, composed of advocates who specialize in different substantive law areas, meet regularly for training and strategic planning purposes. The seven task forces currently in operation are: Employment, Consumer, Housing, Public Benefits, Community Economic Development, Family, and Education. Each task force was asked to address the following questions at their April 2002 meetings:

- 1) What is/are the most pressing (substantive law area; e.g., Housing) needs facing low income individuals/families?
- 2) Are there particular populations with special (substantive law area; e.g., Housing) problems?
- 3) If so, who are they and what are the (substantive law area; e.g., Housing) problems?
- 4) Are the needs identified in above being met? If not, why not?
- 5) What are possible solutions to the above-identified problems

# **1. Employment & Wages: Employment Law Task Force**

## **Unemployment, Unemployment Insurance and Dislocated Workers**

North Carolina had the third highest unemployment rate (6.8%) in the United States in July 2002. 272,100 North Carolina workers were unemployed during that month, representing an increase of almost 44,400 additional workers since July 2001. North Carolina had the eleventh highest number of unemployed workers who ran out of unemployment payments before finding a new job. North Carolina companies laid off more than 63,000 workers in 2001, with 67% of the layoffs coming in manufacturing jobs.

Critical legal needs issues relating to unemployment benefits and dislocated workers are:

- expansion of eligibility for unemployment insurance benefits;
- improve appeals process for claimants (by requiring prompt in-person appeals referee hearings conducted by appeals referees who are licensed attorneys with telephone hearings limited to very specific reasons such as health of the parties)
- improve administration of UI application process to obtain faster payment of benefits
- preserve and increase payment amount and duration of unemployment insurance benefits.
- improve coordination and eligibility for job training and ensure training is linked to existing or likely job vacancies
- enable unemployed workers and others to continue better job training by providing free health insurance or Medicaid;

## **Living Income**

The lack of jobs paying a living wage as a critical legal needs issue for North Carolinians. A living income standard is a bare bones budget to cover necessities such as housing, childcare, food, taxes, health care, and transportation. It does not include extras or saving for emergencies, education, retirement, car loans or entertainment. The hourly earnings for a single parent, with one young child living in the urban part of the state would have to be at least \$11 to meet the living income standard; the same parent living in a rural area would have to make at least \$8.25. A two-parent, two child family, with each adult earning minimum wage would fall almost \$4 per hour short in rural NC and almost \$6 short in urban NC of amount needed to meet the living income standard.

## **Wage Claims and Discrimination Claims**

Better enforcement of wage and retaliatory discharge laws by the North Carolina Department of Labor and better enforcement of discrimination laws by the US Equal Employment Opportunity Commission are needed.

## **Protection of Vulnerable Workers**

Mothers with children and immigrant workers who are especially vulnerable to labor law violations, including unsafe working conditions and unlawful wage practices as a critical issue.

## **2. Health and Public Benefits: Benefits Task Force**

Access to health care is one of the most pressing needs facing low-income individuals and families, and presents particular problems for the elderly and disabled. Fourteen percent of North Carolinians are uninsured for health care coverage throughout the year. Many employers do not provide affordable health insurance plans. Certain populations, such as non-disabled adults without dependent children, are not eligible for Medicaid coverage even if they are living in poverty.

Many North Carolinians are unable to obtain prescription drugs. Forty-seven percent of elderly adults have no prescription drug coverage, and North Carolina does not have a state pharmacy assistance program.

Dental coverage is also lacking. Forty counties have no dentist offering services to Medicaid recipients and North Carolina ranked 44<sup>th</sup> nationally for dentists' Medicaid participation in 2000. Almost 73% of Medicaid-enrolled children between the ages of 6 and 14 are not able to use their benefits for dental services; approximately one-quarter of all children enter kindergarten with dental decay.

The time limits on receipt of Work First (TANF) cash payments are also a pressing legal need. Since the so-called "welfare reforms" of the mid-1990s, the TANF population has changed. In 2000, 45,201 families were receiving monthly TANF (Work First) cash payments, a decline of almost 47% since 1997. The number of "child only" cases has remained stable, while the proportion of child only cases has increased dramatically (up 28% between January 1995 and January 2002). The monthly payment levels have not changed in more than a decade--\$272 is the maximum monthly benefit for a family of three (2000)

Finally, access of immigrants to public benefits is a pressing need.

In order to address these problems, additional funding for these programs is necessary, Spanish speaking staff are needed in each Legal Aid office (and in Social Services departments and Social Security offices), and more advocates are needed in "unrestricted" programs because much of the work needed is not able to be done by LSC-funded programs.

### **3. Education: Education Law Task Force**

The Education Law Task Force identified the following legal needs issues:

- Implement *Leandro* decision;
- Improve cultural awareness and sensitivity of teaching and other school staff to improve learning environment;
- Improve instruction to African-American, Hispanic and other minority children to eliminate reported achievement gap;
- Reduce public school class sizes and improve school facilities;
- Improve identification and instruction (including supportive services) for children with special needs,
- Improve identification of immigrant and other children requiring ESL instruction
- Prevent discrimination against immigrant children;
- Prevent denial of school admission of children with residency issues;
- Preserve and improve due process protection from unfair or excessive discipline;
- Prevent overuse of disciplinary suspensions and develop alternatives to suspension;
- Ensure that all children (including those children suspended or expelled) retain right to education and educational services;
- Improve access to community colleges and state university system;
- Improve vocational education in the high schools.

Most of these issues require legislative and administrative advocacy; some of the issues can be addressed by community education and litigation.

## **4. Housing: Housing Law Task Force**

The lack of safe, decent and affordable housing is the overarching need for low-income North Carolinians. This need stems from many factors, all interrelated—low incomes, increasing housing cost, reduced federal and state assistance, unscrupulous landlords, weak or no local housing codes, “bias” against “low-income” housing. I

### **➤ Affordable Housing**

Forty percent of lower-income renting households have to make monthly decision between food, shelter, health care and other basic needs (2001). The average hourly wage needed to afford a 2-bedroom apartment at fair market rate in NC is \$10.16 (2001)

To address the lack of affordable housing, the government must provide greater resources and incentives. From the federal government, these resources include public housing, the Section 8 program, tax credits, and rural housing. The state government needs increased, recurring funding for the NC Housing Trust Fund, state housing bonds, targeted state tax credits for the poorest and disabled; and inclusionary zoning authority (density bonus incentive).

To keep tenants in public housing, reform of the “strict liability” eviction standard set forth in the Rucker decision is needed through litigation or legislative/rulemaking action.

### **➤ Unfit Housing**

\*1 in 5 NC households suffers from one or more housing problems, defined as living in housing with incomplete plumbing or kitchen, being overcrowded or spending more than 30% of the income on housing costs (2001)

\*13,000 households lack plumbing; 8,861 households do not have heat; and 13% are heated with kerosene (2000)

\*21% of the state’s housing stock is between 40 and 60 years old (2000)

To address the issue of unfit housing, minimum state and local housing codes must be created; where housing codes already exist, they must be improved and enforced.

### **➤ Manufactured Housing**

Twenty-eight percent of the state’s new housing constructed between 1990 and 1998 was mobile homes, which comprised 19% of the total housing stock in North Carolina. Mobile homes are often sold in a manner similar to used cars—prices are up to the discretion of the seller, interest rates are negotiable, and often very high. Mobile homes do not appreciate in value, and are not a means of wealth building. Bankers are reluctant to provide loans for mobile home purchases, or do so only at very high interest rates. Finally, mobile home owners typically do not own the land and are therefore similar to tenants in their own home—subject to eviction but often unable to afford to move the mobile home.

The law should require longer notice for evictions from mobile home lots, together with a “good cause” standard for eviction from mobile home lots. In addition, sticker prices should be required for the sale of mobile homes.

➤ **Special Populations**

Several pressing housing issues affect particular populations:

For children, the issues of lead poisoning and water contamination are critical. Twenty-two percent of the housing stock in the state has lead paint.

Immigrants face the following legal issues: Undocumented immigrants are ineligible for subsidized housing; “bad” landlords take advantage of immigrant renters and manufactured housing buyers; immigrants face language and cultural barriers with landlords, government agencies and the judicial system; and immigrants lack knowledge of their rights.

The mentally ill face special difficulties in finding affordable housing near services they need (e.g., zoning restrictions on Group Homes).

Farm workers lack safe and decent housing.

## **5. Consumer: Consumer Law Task Force**

### **Predatory Lending**

Below are some examples of predatory mortgage lending abuses to which low-income clients have been victims:

- Home improvement scams involving home loans from sellers of home improvement work such as replacement windows and siding, where the work is generally overpriced and rarely performed adequately;
- Mortgage Broker kickbacks
- Loans to people who cannot afford to repay the loan
- Balloon payment terms that a borrower cannot meet unless refinancing at excessive costs or end in the loss of the home;
- Repeated refinancing to bleed the homeowner's equity
- Paying off a FHA loan with a low interest rate with a much higher interest loan

In 1999, \$649.5 million was given in loans and \$96.6 million was collected in fees by sub-prime lenders. As a result of increased credit costs to NC residents and the increase in home foreclosures, the NC Legislature enacted laws to restrict and limit high cost home loans. This law applies to loans made after July 1, 2000 and protects NC residents from such practices as excessive fees and high interest rates. Sub prime lenders make 27% of all loans in geographic areas of minority concentration with black borrowers representing 20% of the sub prime mortgages, but only 10% of the prime mortgages. Also, 35% of loans made to Latino borrowers were made by sub-prime lenders (1997).

These predatory lending statutes do not address past abuses in loans made prior to July 1, 2000. Low-income clients who have loans made before July 1, 2000 have difficulty making payments and may face foreclosures of their homes. Clearly, once low-income persons, especially those clients who are middle aged or older, lose their homes, then it is extremely unlikely for these persons to ever become homeowners again. This has a devastating impact not only on the individual but also on the entire minority community in which the individual lives.

In order to address predatory lending issues, legal services programs must make these issues a top priority. The low-income client community must become better-educated consumers about home financing. Public and private lawyers must be educated on these issues. Legal Services staff must improve the ability to screen clients for this issue. Pro bono attorneys must be recruited to represent clients facing home foreclosures so that defensive claims can be properly filed. Closing attorneys representing low-income clients must be held responsible for informing clients about the financing arrangements and fees in the loans. More high profile litigation should be filed. In addition, opportunities to expand affordable credit and increase funding for low-income loans must be explored.

### **Lack of Affordable Credit**

Low-income clients have difficulty accessing affordable credit. Traditional banks have underserved such clients by not making loans to them at the best terms and by closing branches that serve these communities. When banks close branches, clients must turn to businesses such as finance companies that make small loans at interest rates as high as 36% annually. Also, when payday lenders operated in these communities, the average annual interest rate for such transaction



was effectively 460%. In addition, low-income clients are unable to secure credit cards with low interest rates and must enter into retail installment sales agreements for the purchase of such things as furniture and appliances. The lenders are usually out of state banks that can charge interest rates in excess of the maximum NC rates of 24%. Moreover, clients who want to purchase a used car typically buy a car from a dealer who will provide financing. This financing results in interest charges as high as 29% annually even for consumers with good credit rating. Clearly, the poor pay more.

## **Mobile Homes**

Twenty-eight percent of the state's new housing constructed between 1990-1998 was mobile homes, which comprised 19% of the total housing stock in the NC (1998). Mobile homes are often sold in a manner similar to used cars—prices are up to the discretion of the seller, interest rates are negotiable, and often very high. Depending on the quality of the set up, mobile homes develop leaks and other structural problems that dealers are slow to repair, if at all. Mobile homes do not appreciate in value, and are not a means of wealth building. Bankers are reluctant to provide loans for mobile home purchases, or do so only at very high interest rates. Many new mobile homes will ultimately cost as much, if not, more than a stick built home. Because mobile homes are generally considered personal property, dealers can either repossess them peacefully when the owner is not there or file for claim and delivery proceeding before the clerk of court. This process results in the owner becoming temporarily homeless even when the owner has good counterclaims against the dealer or lender.

Finally, mobile home owners typically do not own the land and are therefore similar to tenants in their own homes—subject to eviction but often unable to afford to move the mobile home. The moving costs for a mobile home average at least \$1,000 depending on the distance. Tenants of mobile home lots have difficulty paying for the moving costs and many times, may abandon the home on the lot. The result is that the home is either repossessed or the owner of the mobile home lot acquires the home and rents out the home and lot.

The task force suggested the following strategies to address these legal needs: community education (including public service announcements for warranty claims addressed by the Department of Insurance's Manufactured Housing Board); revise claim and delivery proceedings for mobile home repossessions; require sticker price displays in windows; and require a warranty for used mobile homes.

## **Used Cars/Transportation**

Consumers purchasing used cars usually do so on an "as in" basis, providing them little, if any, protection when the car develops repair problems. To address this issue, a "lemon" used car law should be enacted, and a rescission/cancellation period should be required after each sale. The state of Virginia has such a cancellation period. In addition, auto auctions for repossessed cars should be banned because the cars are sold at very low prices resulting in high deficiencies assessed to the consumer. Community education on used cars, together with increased expertise in the private bar to handle these cases, would be helpful.

## **Land Installment Sales**

Land installment sales contract create problems for low-income clients because they are not in writing and if they are in writing don't adequately address potential defaults. Low-income clients may pay on such contracts faithfully and then the owner refuses to transfer title or proceed with an eviction process claiming the clients are renters. Such transactions should be regulated to require

them to be in writing, and to be filed/recorded in order to protect consumers. Community education is also a must.

### **Arbitration Clauses**

Binding arbitration clauses limit the abilities of consumers to assert their rights. Arbitration was originally seen as the way to resolve disputes between businesses that come to the bargaining table with equal power. That equal power is not present between a business and a consumer, in particular, a low-income consumer. Although case law has supported arbitration clauses, the task force members felt strongly that arbitration should not apply to consumer transactions and consumers should have the choice whether to arbitrate a claim or litigate it.

### **Pay Day Lending**

In 2001, North Carolina ended a four-year experiment with state sanctioned “payday lending”—also known as “deferred deposit check cashing.” In a typical payday loan transaction, a borrower writes a check to the lender for a certain amount of money (usually around \$300) that is post-dated to a date in the near future—usually 10-14 days later. The borrower receives immediate cash—most typically \$255 (i.e., \$300 minus a 15% fee). A disturbingly high percentage of consumers find themselves trapped into taking out a series of back-to-back payday loans. This can produce effective annual interest rates on what amount to open lines of credit that are as high as 400 or 500%. Despite the repeal of the law, many payday lenders have continued to operate in direct contravention of state usury laws. Many lenders have cloaked the transactions as bank loans and claimed exemption from state laws by affiliating with out-of-state banks. While consumer advocates have made significant progress in their efforts to reign in the abuses of this industry, hundreds of payday shops continue to make hundreds of thousands of payday loans in North Carolina each year. Payday lending thus remains an enormous drain on the wealth of vulnerable individuals and communities throughout the state that can little afford it. Its persistence highlights the need for better, more affordable and more accessible forms of credit for people of lower income.

The task force identified the following client populations as particularly vulnerable to consumer abuses: Hispanics, the disabled, elderly, domestic violence victims and separated spouses. Also, the task force recognized that this issues are not being adequately addressed for several reasons including: 1) There are not enough legal services staff; 2) Few private attorneys have the expertise to handle these issues; 3) Bankruptcy attorneys rarely litigate consumer issues in bankruptcy court; and 4) there is a lack of consumer education.

## **6. Family: Family Law Task Force**

The most pressing legal issue is access to the courts/legal system for relief. Low-income people cannot access family law relief in custody, visitation, divorce, and marital property issues without an attorney. Private representation is not affordable for people living in poverty. Due to lack of funding, many legal services programs restrict representation in family law cases to assistance with protective orders in domestic violence cases. However, victims of domestic violence frequently need to seek a full range of relief.

Clients particularly vulnerable in these cases include clients with limited English proficiency, clients who have mental health or other disabilities, and children, and clients who live in rural areas.

The unmet needs in family law cases can be met through the following means: (1) increased amounts of core funding for family law issues in legal services programs so that advocates are not restricted by grant terms to providing limited services (such as emergency relief/domestic violence protective orders); (2) *pro se* access to the courts; (3) increased levels of *pro bono* work (either direct *pro bono* family law cases or increased use of *pro bono* lawyers in other types of cases to free up legal services staff to represent clients in family law matters).

## **7. Community Economic Development: CED Task Force**

The most pressing needs facing low-income individuals and families in community economic development are: affordable housing; employment and job creation; vocational training; protection from predatory lenders; access to banking services; community economic development –assistance in organizational and program development to community based organizations such as Community Development Corporations (CDCs).

Populations particularly vulnerable to these issues include: low-income, elderly, disabled, and Hispanics (affordable housing and predatory lending); youth, especially in urban areas, and displaced workers (job creation, employment and vocational training); and eligible CDCs and CBOs working in disadvantaged neighborhoods (Community Economic Development).

The above-identified needs are not really being met for reasons such as the following: There are not enough legal aid staff and private attorneys with the expertise to handle these issues; insufficient awareness as to the role of LANC and other attorneys/advocates in working proactively to assist in these areas; lack of training in community economic development law and practice for advocates working in the field; insufficient community outreach and education initiatives within neighborhood and community based organizations.

Solutions to the problems include more training for attorneys/advocates in CED law and practice, the development of a combined CED/litigation strategy, work with community based organizations to construct and maintain a legal framework for neighborhood revitalization, development of a working relationship with CDCs, CBOs and faith based organizations (FBOs) to assess the need for services in local communities, and development of an effective CRA strategy. We have to become more proactive in our CED advocacy in order to be properly and effectively engaged with providing assistance to clients in substantive areas of CED practice including, but not limited to, the following activities:

### **Housing**

Assist clients/CBOs with:

- A. Identifying financing sources for affordable housing such as:
  - 1. Community Development Block Grant
  - 2. Farmers Home Administration
  - 3. USDA
  - 4. HOME
  - 5. Housing Trust Fund
- B. Project development
- C. Tenant education
- D. Other Housing

### **Organizational Development (for CDCs/CBOs)**

- A. Board development
- B. Incorporation and Bylaws
- C. Tax-exempt status
- D. Record keeping and reporting
- E. Other

## **Economic Development**

- A. Business contract/lease/insurance
- B. Business financing
- C. Feasibility study
- D. Taxes and record keeping
- E. Small Business Incubator development (to assist with the development of minority businesses and job creation)
- F. Economic development policy
- G. Job creation/training programs
- H. Other economic development

## **Community Reinvestment**

- A. Advocacy with financial institutions
- B. Dealing with Regulators
- C. Community Education
- D. Community credit needs assessments

## **Predatory Lending**

- A. More Community Education and dissemination of information through local CBOs, CDCs, and FBOs.
- B. More training for Legal Aid attorneys and advocates
- C. Increase awareness amongst the elderly re: predatory lending by holding special info sessions at senior centers and other venues where they usually congregate.

## IV. Special Populations

### A. Children: Advocates for Children's Services Legal Aid of North Carolina

Advocates for Children's Services (ACS), a program of Legal Aid of North Carolina, is a persistent voice in the struggle for the rights of North Carolina's abused and neglected children. Recognizing that children are citizens with rights, ACS provides free legal representation to children across the state that need medical, psychiatric, special education, or foster care/adoption services. Priority is given to children who are involved in the foster care system, and emphasis is placed on securing the services promised to children under three federal government programs: Medicaid, Individuals with Disabilities Education Act (IDEA) and Adoption and Safe Families Act (ASFA).

At 4 sites – Goldsboro, Asheville, Charlotte, Greensboro – ACS initiated a dialogue on children's unmet legal needs during May-June, 2002 for the purposes of conducting a "needs assessment survey." In April 2002, a total of 348 invitations were sent to child advocacy agencies, departments, organizations, programs as well as child advocates and young adults. Twice follow-up notices (193 each time) were sent. Registration was by e-mail or telephone.

Out of the total of 66 who registered to attend, 37 actually attended the meetings in Goldsboro, Greensboro and Asheville. (At Charlotte, there was no dialogue due to low interest). The participants were a diverse mixture from all walks of society involved in child advocacy – social workers (5), child advocates (8), attorney (1), family members/friends (2) and others (DSS consultant, GAL program, GAL volunteer, children's services administrator, social work supervisor etc).

At each site, the meetings lasted for a total of 3 hours and participants were asked to consider all children including those with disabilities (physical, cognitive, medical, behavioral/emotional), living in rural communities, in poverty, in state custody, homeless, foster care etc. With regard to barriers to unmet legal needs, members were required to consider all barriers including legal, procedural, systems, monetary and convenience. While considering solutions, they were asked to include public policy, systemic, practices, programs and representation.

The dialogue resulted in the following information on (1) on children's unmet legal needs (2) barriers to fulfilling those needs and (3) solutions necessary to address them.

#### (1) Unmet Needs

Under **"Healthcare"**, quick access, crisis services, access to services, insurance etc, to name a few, are the unmet requirements. Safe housing, residential care specialized for children, inadequate public housing etc are some of **"Housing"** needs to be addressed. Lack of sound, basic educational opportunities, quality after-school programs, access to day care, parent training etc is the prevalent, unmet **"Education"** need of North Carolina children. **"Representation & Advocacy"** needs are plenty as well – children's need to have a say, advocates trained in children's law, interagency collaboration, children's need to have access to legal system, etc. Under **"Child Welfare"**, there is a need for parent accountability, quicker intervention, ASFA guidelines to be followed, consistency, stability etc. **"Family Law"** needs vary from removing obstacles related to kinship care, greater access to legal services for low income family to services that are not fragmented. Some of the **"Other"** general legal needs that exist are education for mental health providers, equal opportunities for services, transition services, more community-based services etc.

## **(2) Barriers to fulfilling those needs**

The barriers to successful implementation of services for children are funding restrictions, insurance lobby, cost of treatment/medication, caps on services, rigid procedures, complicated process, blame game (systems working against itself), lack of accountability, children being low budget priority, no legal representation, etc.

## **(3) Solutions necessary to address them**

Some of the solutions offered at the 4 sites were analysis of program effectiveness, suing providers, independent monitoring of services (watchdog), more appropriate funding, continuum of care, strength-based/individualized services, alcohol/tobacco tax, tax corporations, strong political support, change the law, Crisis care facility, money to follow the child, etc.

Written data was collected from 68 young adults – a process only recently begun and will ultimately be a long-term project – involved in the foster care system to better understand their perspective of their needs. In response to **“do you want to be notified when a court hearing is scheduled to review or change your placement?”** 87% answered YES and 13 % answered NO. In response to **“do you want a chance to tell the judge how you feel before placement decisions are made?”** 87% answered YES and 13 % answered NO. In response to **“do you wish you had your own, independent attorney to make sure your voice and opinion are heard at court?”** 75% answered YES (comments by them to this question: “So they can know how I feel about everything”; “Because they are there for me, not the system”; “It would make me feel better”; “Yes because I want to tell them how I feel and what I think is best for me”; “Because they would make sure my rights are not violated”; “Some of the things that are said I don’t agree with”) and 25% answered NO (comments by them: “I can do for myself”; “It does not matter”; “Because I can talk myself”; “I really don’t participate in my court hearing”; “Because all my needs are met at this time”).

## **Recommendations**

Based on the strong evidence outlined within this report that North Carolina’s children are being denied necessary services and grossly under-represented in the legal system (and with alarming consequences), ACS makes the following recommendation to the Planning Council:

- Immediately develop a Task Force on the Unmet Legal Needs of Children and urge all provider organizations participating in the Legal Services of North Carolina Planning Council to actively take part.

## **Conclusion**

This Report, and every other of the many done nationwide, make it clear that an intolerable number of children are not getting their essential needs met. Moreover, these children do not have legal representation to get these needs met even when federal and state law promises the services. The denial of these basic needs leads to delinquency, school dropout, substance abuse, lower earning capacity, poverty and failed adulthood. The most effective place to interrupt the cycle of poverty that legal services lawyers work so tenaciously and purposefully to defeat is at the beginning of that cycle. Serving children has historically held low priority for legal services programs nationwide. We must collectively and unselfishly take action to help prevent the children of today from becoming our adult clients tomorrow.

## **B. Migrant Farm workers and Transnational Workers: Farmworker Unit, Legal Aid of North Carolina, Inc.**

While exact numbers are unknown, the numbers of both migrants and seasonal farmworkers and their dependents may be estimated. The best and most recent estimate is a study completed by the Tomas Rivera Center at the University of Texas in 1992 (researchers were Alice Larson and Luis Plascencia) for the Legal Services Corporation. Although Larsen/Plascencia actually estimated the number of jobs rather than people (data on agricultural production being more widely available and more accurate), they estimated that there are 142,167 migrant farmworkers and dependents in North Carolina. This study is now used to apportion the LSC migrant funding to LSNC, although the funding is based upon North Carolina's proportion or percentage of the number of migrants and dependents in the United States. Since the Larson/Plascencia study, the numbers of migrant nursery, horticultural, and Christmas tree workers in North Carolina have expanded dramatically and it is clear that the Larson/Plascencia numbers underestimate the number of North Carolina migrant farmworkers.

Transnational workers in North Carolina are not a subset of the Larson/Plascencia, e.g. seafood processing, tobacco warehouse work, hotel work, etc. The U.S. Department of Labor approved more than 5,000 H-2B visa petitions for 1999 for North Carolina employers. Positions currently held by H-2A transnationals in tobacco and other field crops, though, were probably included in the Larson/Plascencia estimate.

Most of the Farmworker Unit work revolves around issues that are related to farmworkers' status as farmworkers. Because agriculture was excepted from many of the New Deal programs passed in the 1930s, the legal issues involving farmworkers and basic employment rights is specialized. These issues include:

- payment of wages, including who is responsible for wage payment as an employer under the Fair Labor Standards Act (crewleaders, farm operators, packinghouse owners, etc.):
- deductions from wages or kickbacks and inadequate or non-existent wage receipts or payroll records;
- payment of less than the minimum wage for piece rate work; issues of waiting time, travel time, and overtime (although most agricultural work is exempt from overtime);
- recruitment to come to North Carolina to do farmwork from other states, false promises or misleading information, or changes in the agreement, all of which are covered under a special federal statute, the Migrant and Seasonal Agricultural Worker Protection Act;
- labor camp housing or other employer-provided or arranged housing which does not comport with the relevant OSHA and state housing codes;
- lack of water, toilets and handwashing facilities at the worksite as required by the OSHA field sanitation standards;
- violations of state and federal regulations regarding pesticide usage and exposure;



- on the job injuries, frequently not covered by North Carolina's Workers Compensation Act;
- non-payment or non-reporting of FICA and FUTA taxes;
- transportation of migrant workers in unsafe and unauthorized vehicles;
- obligations of agricultural employers under the Wagner Peyser interstate and intrastate clearance order system of the state employment service;
- protection against retaliation under federal and state schemes;
- special eligibility criteria for migrant farmworkers for food stamps because of fluctuating incomes and migrancy;
- migrant education programs rules and regulations;
- the H-2A and H-2B temporary worker programs with the attendant regulations and procedures and their interplay with other federal and state statutes;
- immigration law, especially those parts most affecting farmworkers, including past programs such as the Immigration Reform and Control Act of 1986's agricultural worker adjustment program, and the use of certain provisions of the law, such as visitor's visas, to enable transnational migrant farmworker clients to return to the U.S. for trial; and
- civil rights law uniquely affecting agricultural workers, such as the peculiar employment discrimination issues involving non-citizens, or discrimination against citizens, or discrimination against families in migrant housing, or INS stops and seizures.

Transnational workers who do not work in agriculture, such as seafood processing workers share many of these specialized issues. Furthermore, many of the legal strategies appropriate for migrant farmworkers are the most appropriate strategies for transnational workers.

The Farmworker United has four substantive priorities that center on farmworkers being treated as well as other workers and abolishing the lower standards that have prevailed in farm work: full participation in society (civil rights issues and status-related public benefits issues); economic stability and support for families (e.g., employment-related work); occupational health and safety; and increasing the capacity of other organizations to assist farmworkers.

**Barriers to Access to Legal Services.** The barriers which migrant farmworkers face in gaining access to legal services are well documented and include:

- physical barriers such as remote location, lack of transportation, housing and transportation controlled by the employer, and long hours of work preventing leaving the employment during normal office hours;
- relatively short length of time migrant farmworkers reside in North Carolina and the extreme mobility of the clients, many with no permanent address and very few with a permanent address in the United States;
- the language barrier (experience indicates that at least 95% of the migrant farmworker population in North Carolina does not speak English; Spanish is by far the predominant

language although some farmworkers' first language is Nahuatl or Mixtec or one of the Mayan languages);

- migrants clients' frequent inability or unwillingness to communicate about their conditions, because of their almost absolute economic dependence upon their employers; and
- migrants' reluctance to utilize the legal system to resolve disputes because of limited education, negative experiences or negative assumptions from their culture (many farmworkers are not familiar with the concept of individual rights or equal treatment under the law regardless of wealth or position).

### **Farmworker Unit of Legal Aid of North Carolina, Inc.**

The Farmworkers Unit of Legal Aid has three attorneys and three paralegals, all of whom speak Spanish and all of whom do regular outreach to migrant labor camps during the season. The purpose of outreach is client education. The unit has a hotline intake system because the majority of clients call from pay phones and have often walked a long distance to access the telephone.

In addition, the LSC restriction on the representation of many classes of non-citizens greatly affects the ability of the Farmworker Unit to serve all migrant farmworkers in the state. Some of the most vulnerable workers are undocumented and LSC-funded programs cannot represent many categories of aliens who have INS permission to be employed in the U.S. In addition, the ban on class actions has greatly affected effective representation of H-2A workers. North Carolina has the largest number of H-2A (temporary foreign agricultural) workers of any state. One employer, the North Carolina Growers Association, employs virtually all of these 10,000+ workers. All of these workers have an identical contract, approved by the U.S. Department of Labor. Although conditions vary somewhat from farm to farm, many of the rules which apply to these workers are the same or should be applied equally because each of the farmers is a joint employer with the Association of the workers. Because of the extreme intimidation of these workers thorough the use of a black list, without a class action changing illegal but widespread practices is impossible.

## **C. People with Mental Disabilities: Carolina Legal Assistance**

### **Introduction**

There are more than 150,000 people in North Carolina with severe and persistent mental illness or a developmental disability such as mental retardation or autism. These conditions are lifelong and are characterized by significant social stigma which prevents people from forming friendships and other social circles which provide informal advocacy for people. It is not uncommon for people with mental disabilities to also have one or more physical disabilities. In addition, upwards of 175,000 children in the North Carolina schools have been identified as having a disability entitling them to special education services. Many of these children have learning disabilities, and the quality of the education they receive can determine whether they remain disabled for life or develop the skills to function independently as adults. According to recent studies, 49% of all students with learning disabilities drop out of school, and approximately 40-50% of youth in juvenile corrections have some form of learning disability.

Most adults with disabilities are indigent. They are dependent on SSI or SSDI benefits; and without Medicaid, they cannot afford the medication or other therapies they need. They face discrimination in housing, in job opportunities, and in school. They are vulnerable to neglect and abuse at the hands of caregivers and of agencies that are supposed to take care of them. They cannot afford to pay for lawyers, and the remedies that are available to them are specialized and not within the priorities or the practical skills of most legal services field programs.

### **Barriers to Access**

The access barriers to legal assistance for people with mental disabilities include:

- A. Difficulty in communication caused by their condition.
- B. Social Isolation. People do not have friends or acquaintances with whom to discuss things and who might help them identify a problem as legal.
- C. Physical isolation living in rest homes, group homes or institutions without access to phones or transportation. A committed mental patient has little more freedom to leave the psychiatric institution than does a convicted inmate the prison. A nursing home resident who cannot walk or drive is similarly imprisoned.
- D. Dependence on caregivers who may have adverse interests.
- E. Inability to read and write.
- F. Limitations on legal capacity because of guardianship or commitment proceedings.
- G. Lack of physical accessibility to address mobility impairment, deafness, blindness.
- H. Lack of access to money or resources. For a client getting SSI who lives in a rest home, the SSI goes directly to the rest home. The client is supposed to receive \$1 per day for personal use, but that does not always occur, or it is spent on a soft drink or allocated as such.

## **Nature of Specialized Legal Problems and Remedies**

The legal problems faced by people with mental disabilities include, but are not limited to:

- A. Income maintenance
- B. Access to health care and mental health or developmental disability services
- C. Access to special education
- D. Freedom from neglect and abuse
- E. Freedom from discrimination on the basis of disability
- F. Competency and Guardianship issues
- G. Access to fairness in the courts.

There are also a number of specific statutory protections and remedies available as well as constitutional protections for people in institutions that relate to these legal problems. The two most prevalent are the American with Disabilities Act (ADA) and the Individuals with Disabilities Education Act (IDEA). Litigation involving most of the legal problems faced by people with mental disabilities is specialized and there is a substantial body of law related to each of the issues listed above.

## **Carolina Legal Assistance Priorities and Case Acceptance**

Every caller with a disability question is given the opportunity to talk with a lawyer on the phone. Advice is given regarding a wide range of issues, particularly special education issues. Referrals are made whenever possible. However, due to limited resources, CLA has limited case acceptance priorities for actual representation. These include:

- A. Special education cases where the child is out of school. Most of these cases result from suspensions and expulsion for behavior that is related the child's disability.
- B. Denials of Medicaid eligibility for people with developmental disabilities.
- C. Limited guardianship, alternatives to guardianship, and restoration to competency.
- D. Specific cases where the party is able to pay a fee on a sliding scale. One illustration is the group home zoning litigation in Caldwell County where a CLA attorney represents a child services agency against the Board of Adjustment in a zoning dispute.

## **Policy Advocacy, Impact Litigation and Special Projects**

In addition to individual cases, CLA engages in a wide range of policy advocacy. This may be before the State Board of Education, or working the state Department of Health and Human Services. It may include moving bills through the General Assembly or raising the alarm to stop something harmful such as a bill introduced in the 2002 session that would have established a quota on the number of people with disabilities who could live in any North Carolina county.

Impact litigation includes a history of significant federal class actions and participation in the Leandro case. It includes a suit won in 2002 granting a preliminary injunction that required the state to implement rules over the use of seclusion and restraints in state and local facilities. There is often a close relationship between the policy advocacy and the impact litigation as solutions to systemic problems for our clients cannot usually be solved with either one or the other, but requires attention to both.

Special projects have also been developed to address systemic issues and are funded by grants for those purposes. Current special projects include:

A. Guardianship and Self-Determination. This project seeks to change guardianship practices through the use of alternatives to guardianship and forms for limited guardianship in five pilot sites throughout the state. The goal is to eliminate guardianship for people in life areas where they are capable of making their own decisions and providing only as much assistance as they need.

B. Victims with Disabilities. This project addresses the needs of people with disabilities when they are victims of crime. It brings together advocates for people with disabilities and victim advocates to address these issues, and provides training about the needs of this population.

C. Juvenile Justice and Special Education seeks to train lawyers, judges, juvenile court counselors and others about the special education needs of youth who are in juvenile court. It is operating in three pilot sites.

## **D. Prisoner Population: North Carolina Prisoner Legal Services, Inc.**

Prisoners, and each of the following sub-categories of prisoners, constitute a special client population because they face heightened obstacles in accessing the justice system.

- (1) Prisoners are deprived of their liberty and can gain access to the justice system only with the cooperation and assistance of their custodians.
- (2) Prisoners constantly interact with government and government officials, and each of those interactions can implicate federal and state legal protections.
- (3) Prisoners commonly lack education, and the fundamental skills necessary to access the justice system (only 9.5% of inmates have any post-secondary education; 12.5% never made it to high school).
- (4) The complexity of the law governing the rights of prisoners (including the law of evidence, criminal procedure, collateral challenges to convictions, and civil rights law) limits the availability of *pro bono* assistance from the broader legal community.
- (5) Among the public, generally, the fact of incarceration entails a profoundly prejudicial and debilitating social stigma.

### **Prisoners Committed to the Department of Correction.**

There are approximately 33,700 people incarcerated in the prisons of North Carolina. The North Carolina Sentencing and Policy Advisory Commission projects an annual growth of about 2% and a population that will exceed 41,000 by the end of the decade. Generally, inmates in custody of the Department of Correction have been convicted and sentenced for terms of 18 months or more. There are no law libraries in the prisons, and the only organization that routinely serves this population is North Carolina Prisoner Legal Services, Inc. NCPLS is presently funded to provide an average of a little less than one hour of legal assistance per prisoner, per year.

### **Pre-Trial Detainees**

On any given day, more than 14,000 people are incarcerated in county jails and municipal lock-ups in North Carolina, pending release on bond or the disposition of criminal charges. Approximately 250,000 people pass through the jails of this State, annually. A small percentage of these inmates serve relatively short sentences (usually only a matter of days, but almost never more than 18 months). But the population of pre-trial detainees is comprised mostly of poor people who are awaiting trial and are unable to post bond. Many of these folks are unable to post even modest bonds (\$500 to \$1,000, in some cases). Consequently, they spend weeks or months in jail awaiting a court date. Crowding and limited or non-existent programs and services make jail time particularly punitive. This state of affairs results in an extraordinarily high rate of plea bargaining for time served (approximately 95% of jail cases), irrespective of the merits of the pending criminal charge and despite the availability of viable (and often, promising) defenses. Additionally, there have been instances when over-zealous prosecutors have exacted punishment in the absence of a conviction - dismissing charges on the eve of trial after the defendant has already spent as much (or more) time in jail than could be imposed upon conviction.

In 2002, IOLTA awarded a grant in the amount of \$35,000 to provide legal assistance to North Carolina's Pre-Trial Detainees. Additionally, IOLTA approved a non-interest-bearing loan of \$25,000 to support possible litigation related to that work.

## **Juveniles Committed to the Department of Juvenile Justice**

During fiscal year 2000/2001, more than 20,300 juveniles were admitted to programs within the Department of Juvenile Justice. More than 9,100 were held in detention awaiting a court hearing or placement. (The average daily population of the detention centers was 271, and offenders were held for average of 13 days). Long-term confinement is provided by the Youth Development Centers, where the average daily population was 885, and the average term of incarceration was 361 days. The troubled young people incarcerated in these centers have all of the problems characteristic of adults who are incarcerated (particularly with regard to limited educational achievement), but they are less mature and more prone to violence.

The Department of Juvenile Justice makes no provision to facilitate meaningful access to the courts. While many youthful offenders may be represented by court-appointed counsel with respect to pending charges, there appears to be little or no legal assistance to collaterally challenge unfair or illegal convictions or sentences, and no recourse to inhumane conditions of confinement. See *Bounds v. Smith*, 430 U.S. 817 (1977) (Prisoners have a constitutional right of meaningful access to the court which can be satisfied by the provision of services of someone trained in the law, or by allowing prisoners access to legal reference materials); *Lewis v. Casey*, 518 U.S. 343 (1996) (the legal assistance that must be provided to prisoners is that needed "to attack their sentences, directly or collaterally, and...to challenge the conditions of their confinement"); and *John L. v. Adams*, 969 F.2d 228 (6<sup>th</sup> Cir. 1992) (Incarcerated juveniles have a right of meaningful access to the courts which requires access to an attorney).

NCPLS has no source of funding to serve this population and legal assistance is not otherwise available to address these problems.

## **E. Native Americans: Legal Aid of North Carolina Sylva and Pembroke Offices**

Enrolled members of the Eastern Band of Cherokee Indians number approximately 12,000. The vast majority of this number reside upon lands held in trust for the 'tribe' by the U.S. Government, located in far western North Carolina (Eastern Cherokee Indian Reservation). This land area is governed by the Eastern Band which legislates through its Tribal Council and a Principal Chief who oversees an executive branch. Tribal laws are applied in the tribal court system, known as Cherokee Court.

Because the tribe makes its own laws, and applies them through its own Court, and because with any given legal problem it first must be determined which Court (tribal, state, or federal) is appropriate, there is a scarcity of attorneys who are knowledgeable in these areas to be able to provide competent services. Many attorneys will not practice in Cherokee Court because of unfamiliarity with tribal laws and because tribal court sometimes operates in ways different than other Courts.

In addition to standard type legal problems arising under special tribal laws such as divorce, custody, domestic violence, consumer issues, and evictions, specialized legal problems are presented which require specialized legal knowledge and experience, including: Indian Child Welfare Act, tribal employment issues, tribal eligibility, impact of tribal per capita payments upon public benefits, Indian adoptions, jurisdictional issues associated with tribal court, tribal lands issues, and many others arising under the Cherokee Code.

Additional barriers to the provision of legal services arise from language and cultural issues. The Cherokee language is still spoken by some members, and interpretive services must be employed in these situations. Even though most members converse in English, care must be given in order to not misinterpret what is said. Values and customs are unique and vary in large degree from those of persons in the general population, with an accompanying distrust of persons not familiar with the customs and traditions. Many enrolled members do not often venture beyond tribal boundaries. Telephone intake services do not suit this population, and the only way to provide access is to do intake on tribal trust lands. The large geographic area of Cherokee trust lands and the greatly dispersed rural population, located in a mountainous region with many substandard roads and hostile weather conditions in the winter months, are also barriers.

In the eastern part of the state, the biggest legal issue for the Native American population is federal recognition for tribal clients which include Coharie (Harnett, Sampson, Duplin counties), Haliwa-Saponi (Warren and Halifax counties), Lumbee (Robeson, Scotland, Hoke and Cumberland counties), Waccamaw Siouan (Bladen and Columbus counties).

In serving these clients, many of the same barriers exist as in the Sylva area: there are language issues, cultural opposition to telephone intake, and rural accessibility issues.



## **F. Persons Facing Environmental Hazards: Legal Aid of North Carolina Environmental Poverty Law Project**

Environmental hazards include:

- Lack of clean drinking, bathing and cooking water;
- Exposure to harmful chemicals at work, including pesticides, solvents (used in dry cleaning facilities) and bleaches (used in animal operations);
- Indoor air quality problems, including asbestos, radon and mildew;
- Lead poisoning which usually results from exposure to lead paint, traditional medicines and ceramics or certain manufactured products;
- Citing of hazardous land uses—landfills, quarries, highways, etc.—close to homes
- Clients facing environmental hazards constitute a special population because (1) they face a problem which is not usually addressed by traditional social and legal service agencies and (2) their lack of wealth ensures that they are ill-equipped to deal with the problem. Low-income families and individuals cannot afford to simply move away from dangerous housing, jobs or neighborhoods, and they face a disproportionate daily burden of immediate and long-term environmental hazards, including:
  - ◆ Poor housing conditions which greatly increase the risk of lead poisoning, asbestos and radon exposure;
  - ◆ Low-wage jobs that are more likely to involve health and occupational hazards;
  - ◆ A lack of resources and education to address many environmental problems like unsafe drinking water, unsafe air quality and indiscriminate pesticide use;
  - ◆ Exclusion from political representation increases the likelihood of abandoned toxic waste sites and industrial facilities, and makes these communities easy targets for the siting of proposed waste disposal sites and facilities;
  - ◆ Deficient access to health care which adds further insult to the injuries of environmental pollution and degradation.
  - ◆ According to Environmental Defense, a national non-profit organization, people living in poverty in North Carolina as compared to those living above the poverty line are more likely to: live near a Superfund Site, develop cancer as a result of exposure to hazardous air pollutants and live near a facility emitting one of six common air pollutants (called “criteria air pollutants”)

### **The Extent of the Problem**

According to the 2000 Census, approximately 8,049,313 people reside in North Carolina. Approximately 12.6% of these residents, over 1 million people, live below the poverty line. The

Environmental Poverty Law Project also takes clients who make up to 187.5% of the federal poverty line, consequently, over 1.5 million people are currently eligible for EPLP's services.

Almost every single one of these residents faces an environmental hazard. In North Carolina there are:

- 27 National Priority List Sites—The NPT is the list of national priorities among the known releases or threatened releases of hazardous substances, pollutants, or contaminants throughout the United States and its territories;
- Over 800 old, unlined landfills and dumps potentially leaking into groundwater aquifers—at least 2 and up to 20 per county;
- Over 10 million hogs producing over 19 million tons of feces and urine each year, contributing to water contamination and air quality problems;
- Approximately 700 reports of groundwater and/or soil contamination from leaking underground storage tanks each year;
- 3 counties with one or more “bad ozone day” (dangerous levels of ozone) between 1998—2000;
- Approximately 800 children found to have elevated or poisoned blood lead levels (2000 statistics) with only 36.2% of the target population (children between 6 months and 6 years) screened.

### **Current Resources**

The Environmental Poverty Law Project is the only organization in the state that focuses on providing direct representation and assistance to low-income individuals, families and communities facing environmental hazards. The EPLP currently has one full time staff attorney and one part time (20%) director handling environmental issues for the entire state. Funding is primarily provided by the Z. Smith Reynolds Foundation and is not guaranteed from year to year. Additionally, this funding does not provide adequate monies for travel and community education.

## **G. Agriculture, Land Loss, the Environment, And the Rural Poor: North Carolina Association of Black Lawyers' Land Loss Prevention Project**

The North Carolina Association of Black Lawyers' Land Loss Prevention Project (LLPP) has been serving North Carolinians since 1982. The LLPP provides legal assistance and community education to financially distressed and limited resource farmers, landowners, and individuals adversely impacted by legal issues related to land rentention and use and enjoyment. The primary focus of the legal and education assistance provided by the LLPP are in the areas of agricultural, environmental, fair housing, bankruptcy, debtor/creditor, estate planning, and civil rights law.

### **AGRICULTURE**

Agriculture represents about 28% of North Carolina's annual income. Almost 21% of the state's workforce still depends upon agriculture for employment contributing over 42 billion dollars a year to the state's annual economy. Although agriculture is a significant part of this state's economy, North Carolina still leads the Southeastern United States in farm loss. Between 1980 and 1996, North Carolina lost more than 25,000 farms. According to the 1997 U.S. Agricultural Census, North Carolina has approximately, 49,406 farms remaining. During that same period 1980 and 1996, North Carolina lost more than 2,500,000 acres of farmland. Although a 2% increase in land in farms occurred between 1992 and 1997, it is anticipated that a significant decline in land in farms will be realized upon the completion of the 2002 U.S. Agricultural Census, which is slated for release in February of 2004.

According to data provided by the United States Department of Agriculture, rural poverty has increased in America to an unprecedented level of approximately 20%. Almost 90% of all family farmers are forced to rely on off-farm income as a means to maintain their family farms. The crisis in American farming persists. In fact, in North Carolina between 1992 and 1997 the number of full-time farmers decreased from 27,376 to 24,355. This loss in fulltime farmers represents an 11% decrease in just 5 years.

North Carolina particularly has suffered through a severe recession rivaled only by the depressions of the 1980's and 1930's. North Carolina residents are still dealing with the aftermath of Hurricanes Floyd, Bonnie, Bertha and Fran. Moreover, North Carolina farmers have been plagued by severe drought in 5 of the past 6 years.

Unfortunately factors outside of natural disasters also have also contributed to the farm crisis. For example, higher production costs and lower commodity prices have significantly reduced farm incomes. There has been a decline in the availability of farm credit programs, thus decreasing the availability of operating funds for small family farms. The increase in corporate farms and contract farming has shutoff markets heretofore open to the small family farmer. For every 7 small farms that close, 1 rural business will close as a result. The viability of the state's rural economy depends upon the survival of family farms. Economic and legal programs must be implemented to address the rural crisis.

The average family farmer in North Carolina does not have healthcare. The average farmer only has access to healthcare if he/she is employed off farm at a job that provides such services. Many fulltime farmers would be eligible for state Medicaid assistance based on their household

income and need, but the value of their farmland excludes them. In order to obtain healthcare many small farmers are forced with the choice of disposing of their livelihood, the land, to receive medical assistance, few choose the later. A concerted effort should be mounted to ensure that the uninsured and under-insured farmers of North Carolina are protected through state health programs such as Medicaid.

Simply stated North Carolina's small family farmers need better access to capital, lower interest loan options, more flexible loan programs with greater debt restructuring opportunities, increased disaster assistance, full coverage disaster insurance, and access to quality healthcare for the uninsured.

## **LAND LOSS**

Not only is land subject to loss as a result of farm failures, but land is also being lost because of the failure of the poor to have adequate and appropriate estate planning. The single greatest issue affecting the poor in North Carolina as it relates to land and its loss is heir property. Many North Carolinians own an interest in land that is undivided among other heirs. It is difficult for these persons to obtain an attorney to perform the costly, time consuming, and tedious task of following the chain of title of a decedent's estate and notifying his/her heirs of their ownership interests. Few, if any, lawyers will prepare simple wills or deeds for the thousands of indigent persons in need of land succession plans. Moreover, the need to provide legal assistance to protect property owners from issues arising in the areas of adverse possession, eminent domain, foreclosures, and tax sales is growing. There must be an increased focus on those who live in poverty and own modest land interests.

## **THE ENVIRONMENT & ENVIROMENTAL JUSTICE ISSUES**

Minorities and economically disadvantaged residents of North Carolina are significantly more likely to have noxious environmental sites located in their communities. These persons are often subjected to environmentally undesirable impacts. The proliferation of landfills, waste treatment facilities, and intensive livestock operations, such as industrial hog farms and poultry farms have significant environmental impacts on the rural poor. Other than the Land Loss Prevention Project, which has been challenging landfill, waste treatment, and intensive livestock operations since 1990, and the Environmental Poverty Law Project there are no legal programs that provide assistance to low-income North Carolinians facing environmental threats. In fact, the Land Loss Prevention Project was almost closed last year by angry hog farmers challenging the Project's ability to represent a low-income African American community in Battleboro plagued by the nuisance of the foul odor and increased insect infestation caused by the adjacent intensive livestock operation.

Access to unrestricted resources for litigation expenses, better public participation laws, and greater enforcement by state and local officials of environmental regulations are essential needs for the low-income communities affected by environmental inequities.

## **RURAL POPULATIONS & POVERTY**

More than 54 million Americans live in rural communities. Rural Americans account for 20% of the U.S. population. The elderly, age 65 and older, comprise the largest segment of the rural population. The elderly are increasingly the target of questionable deed tranfers, predatory lending scams, and unscrupulous home improvement companies. In 1998 the elderly population comprised 18.4% of the rural population. Meanwhile, African Americans made up 9% of the rural populations

and Non Hispanic Whites made up 83%. In 1999, the poverty rates among rural populations escalated to 14.3%. Non Hispanic Whites comprised 2/3 of the rural poor, while 35.2% of rural African Americans, 33.4% of rural Hispanics, and 33.7% of rural Native Americans live at or below poverty levels. The need for the rural poor is access to quality legal assistance. Because local legal aid programs are under funded many legal needs go unmet. Since Hurricane Floyd, the Land Loss Prevention Project has seen a rise in questionable lending practices, especially flipping. The need to have more advocates available to address these issues is daunting, but achievable, if a concerted effort is made to protect the most vulnerable of our society in this time of crisis.

## V. Conclusion

The North Carolina Statewide Legal Needs Assessment is the Planning Council's first attempt at a comprehensive view of the legal needs of North Carolinians living in poverty.

The Council recognizes the limitations of this initial work. There are gaps to be filled. For example, Section IV contains reports for special client populations served by current Planning Council members or for which Planning Council members operate special projects. No reports are included for special populations such as the elderly, those with physical disabilities, or the immigrant community (apart from farm workers). Similarly, demographics about the low-income population surveyed are unknown; it is known only that the majority of the respondents are recent Legal Aid clients. The task force responses are based primarily upon the perceptions of those in attendance at one particular meeting of each task force in April 2002.

Despite these shortcomings, some initial conclusions can be drawn from the needs assessment. For example, there are some needs that are consistently identified throughout the study. One example is access to health care. Forty-five percent of the clients surveyed listed the high cost of medication as a need facing themselves or a member of their family within the past two years; similarly, 39% listed the high cost of health insurance as a need, and 36% listed the high cost of health care as a need. The service providers listed the establishment of health care for the working poor as one of the top 25 issues, and the Public Benefits Task Force listed access to health care as a top priority. Several of the special client providers listed health care issues as important challenges for their client populations (e.g., the average family farmer does not have health care; access to health care for people with mental disabilities; deficient access to health care for persons facing environmental hazards). The statistical report provides documentation to support these health care needs: for example, the high percentage of elderly adults without prescription drug coverage and the lack of dentists who will accept Medicaid for children.

The study also indicates that the legal needs are not being met. In some instances, there are no lawyers available to help certain clients either through the non-profit community or through the private bar. For example, the report from Prisoner Legal Services notes that there is little or no legal assistance for youthful offenders who wish to collaterally challenge unfair or illegal convictions or sentences or to raise issues of inhumane conditions of confinement. In other instances, there are simply not enough Legal Aid or pro bono attorneys to handle more than a few individual cases in a certain area of law. The Family Law Task Force reports that people living in poverty cannot afford a family law attorney and that lack of funding prevents most legal services programs from taking domestic cases except for limited assistance with domestic violence protective orders.

The study also indicates that adequate representation of North Carolinians living in poverty requires advocacy in a variety of forums using a wide range of legal strategies. Strategies listed in the report to help meet the outstanding needs include, but are not limited to, class actions to obtain broad relief, individual representation in courts and administrative hearings, legislative lobbying, policy advocacy in administrative agencies, assertion of attorney fee claims, training of the private bar, and community education. Advocates must have specialized knowledge in many different areas of the law, as well as the ability to speak different languages and to communicate with those of different cultures.

The Planning Council recognizes that the assessment of legal needs is an ongoing process and that the challenge to meet these needs is great. Comments on the North Carolina Statewide Legal Needs Assessment are welcomed as the Council considers its response to the report.